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No. 2393

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IN THE

# United States Circuit Court of Appeals NINTH CIRCUIT

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THE STEAMER SAMSON, and BARGE NO. 8  
BARGE NO. 9 and BARGE NO. 27,

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COLUMBIA CONTRACT COMPANY, a Corporation,  
Claimant and Appellant,

SHAVER TRANSPORTATION COMPANY, a Cor-  
poration,

Libellant and Appellee,

STANDARD OIL COMPANY OF CALIFORNIA, a  
Corporation,

Respondent in Personam.

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Appeal from the District Court of the United  
States for the District of Oregon.

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## TRANSCRIPT OF RECORD. (In Three Volumes)

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### VOLUME II.

Pages 589, to 1340 Inclusive

**FILED**

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MAR 30 1914



Records of Miss Gandy  
at age 870



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**Names and Addresses of Proctors  
upon this Appeal:**

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**For Claimant:**

Teal, Minor & Winfree, Spalding Bldg., Portland, Oregon

**For Libellant:**

Wood, Montague & Hunt

Spalding Bldg., Portland, Oregon

**For Respondent:**

Snow & McCamant, Northwestern Bldg., Portland, Oregon

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CAPTAIN CHARLES JORDAN, a witness called on behalf of the claimant, being first duly sworn, testified as follows:

## Direct Examination.

Questions by Mr. MINOR:

Where do you live?

A. Winlock, Washington.

Q. What is your business?

A. Steamboating.

Q. What position do you occupy in that business?

A. I have a Master and Pilot's License. Been piloting for the last three or four years.

Q. How long have you been engaged in steamboating?

A. I have had a license for about 8 or 9 years.

Q. Pilot's or Master's License?

A. Well, both. Pilot part of the time and afterwards master.

Q. Were you on the Samson on the night of the 21st and 22nd of July, 1911, at the time that it collided with—she with her tow collided with the Henderson?

A. I was.

Q. Now, Captain, I wish you would describe the lights on the Samson and her tows that night when you went on duty.

A. When I came on duty that night I looked around as I always do. There was a white light on the bow of the port scow; a white light on the bow of

the starboard scow; two white masthead lights; a red light on the port side of the Samson; a green light on the starboard side of the Samson and a light aft on the Samson, on the mainmast.

Q. How were those lights on the Samson placed? I mean now the side lights.

A. The side lights are made fast to the top of the Texas, which is just aft the pilot-house. They are fitted with inboard screens, that average about three feet forward of the light, and there is a block about  $\frac{3}{4}$ " thick, three feet wide and six feet long. This is nailed edgewise on the inside of these screens to keep the light from shining across the bow; that is on the side lights.

Q. That is on the side lights?

A. And the masthead lights are fixed to show from right ahead to two points abaft the beam on either side, and the after light from the mizzen mast or mainmast is the same; shows from aft to two points abaft the beam forward.

Q. Does the Samson use a compass, or do you use a compass in steering the Samson?

A. I always use it except if occasion rises where I have to follow a course. Then of course I have to use my own judgment as to where to steer then.

Q. Have you a compass course by which the Samson steers?

A. Yes, sir, we have.

Q. I wish you would give the course which the Samson ordinarily steers when she turns the point,

the upper point of Puget Island.

A. I don't know as I can remember. I would have to get it—get the book. I have a book in my over-coat.

Q. Get the book, will you and let's see what the course is.

A. From the upper end of Puget Island?

Q. Say from there up to Bugby Hole.

Mr. C. E. S. WOOD: Pancake Point.

Q. No, not Pancake Point; the point at Bugby Hole.

Mr. C. E. S. WOOD: The point that he rounded.

Q. If you choose, you can give the course all the way down from Pancake Point.

A. We steered from Pancake to Coffee Island Northwest by west to half west.

COURT: That is above Coffee Island?

A. That is from Pancake Point to Coffee Island, yes, sir, above From Coffee Island to Bugby Light the same, northwest by west half west and then through the turn north by west three-quarter west; to Hunting ranges, north three-quarter west. Do you want them any further down than that?

Q. Yes, further down.

A. To Skamokowa light northwest by north, one-quarter north; to Lower Skamokowa—

Q. I don't want it below that.

A. That is all of it, then.

Q. Captain, when you left—when you were sailing on the course toward Bugby light, did you see

any steamer ahead of you?

A. There was no steamer, but there was a fish boat just abreast Rugby light.

Q. Did you see the lights of any steamer ahead of you as you were sailing down towards Rugby light?

A. No, sir, nothing but this fish boat.

Q. Now, where was the Kern when you first saw her?

A. I think that I was between Pancake Point and Coffee Island—no—not when I first saw her. When I first saw her, I think that I was about Waterford light, if I remember correctly. It was down around Westport light somewhere.

Q. How long did she remain in sight?

A. Well, she was in sight almost continuously then until she went into Rugby Hole. As she went around the point of Puget Island, of course I lost sight of her. I was then about half way up between Pancake Point and Coffee Island.

Q. Did you see her afterwards that night?

A. I saw her again after I rounded the lower point of Puget Island—Rugby—

Q. After you rounded the lower point of Puget Island?

A. At Rugby Hole.

Q. Now, before you rounded the point of Puget Island, did you give any signal?

A. Yes, I blew one long blast of the whistle.

Q. I wish you would describe the appearance of the river as you come down in what you call Rugby

Hole.

A. Well, as you go in Bugby Hole, it looks as though you were going right up against the solid wall or hill. The island makes down from the starboard side of the channel. There is a high bluff on the port side, makes it look as though going right into a black wall. A stranger couldn't see any way out of it.

Mr. C. E. S WOOD: As you speak of starboard and port, you mean as you were, going down the river?

A. Yes, I was going down the river, yes, sir, and that is dark in there; looks as though no way out until you get down just about abreast of Bugby light; then it begins to open up again.

'Q. Now, on which side of the channel were you running on that course?

A. This fisherman showed me a red light as he was abreast Bugby light, so I had to haul well over to Puget Island side, the starboard side of the channel going down.

Q. And when you turned the point of Puget Island, opposite or in Bugby Hole, which shore were you nearest to?

A. I was very close to the Puget Island side.

Q. Now, Captain, in turning that point, what helm do you have to use?

A. Port helm.

Q. When you turned the point of the island, I understood you to say you saw the lights of the Kern?

A. I did, yes, sir.

Q. Did you see any other lights at that time?

A. I saw what afterwards proved to be the M. F. Henderson and Oil Barge 93 in tow of the Henderson.

Q. Did you hear any signal between the Henderson and the Kern?

A. Yes, sir.

Q. Where were you when you heard the signals?

A. I was just getting in sight of them from rounding the point of Puget Island.

Q. What signals did you hear?

A. I heard two blasts of the whistle from each one.

Q. Were they both in sight when you heard those blasts?

A. Yes, sir, I just got in sight of them; just around the point.

Q. Could you judge how far they were from you at that time?

A. Well, not positively, no, but I thought they were down about where the slough comes in—Cathlamet Slough, about the lower point of Puget Island. I think there is another name for that slough, but I don't remember what it is now, but it is the slough that goes in to Cathlamet Channel from the lower end of Puget Island.

Q. That is the little slough that runs between Sand Island and Puget Island?

A. Yes, sir, a sand spit makes down there; it was covered with green grass in the summer and spring.

Q. Had those two vessels passed when you saw them?

A. They were just passing then. Just whistled to pass.

Q. Captain. I wish you would describe the course you took after you turned the point of Puget Island.

A. Well, I told the man at the wheel to steer for the Upper Skamokowa light, as we always did, and then I had seen these boats coming, so I told him, as long as we was well over, we better hold up that way a little—to steady her up there; so we steadied up, headed a little above Skamokowa upper light. Shortly after that the oil barge gave one whistle, so I told him to port; she was going down with the ebb tide, setting over all the time; and the oil barge didn't seem to change her course any, so I says "Port a little more, John." That fellow is steering bad, anyhow we will give him plenty of room, keep off going down. I could see both red and green lights. I said "John, By Jingo, there is something wrong with that fellow. He don't seem to move at all. He holds right in the course; there is something wrong." I says "Port again, she is coming." Shortly afterwards the oil barge blew another whistle and I answered and I said "Hard aport." John says "Hard aport now." I heard the bell ring, put by hand on the dial, saw she was hard over and the boat was swinging. I just let go the whistle cord; as I let go I happened to glance at the compass and saw she was headed around north half east. The boat was still swinging on the screw.

Wasn't only a few seconds between the last whistle until the crash came. I was well in toward the Puget Island side then, just a little below Mr. Ostervolt's seining house.

Q. Had you at that time gone down on the Hunting Island range lights?

A. No, sir, I never got onto the ranges at all.

Q. Did you observe those ranges that night?

A. Yes, sir.

Q. What was their condition as to being open or not?

A. They were well open on the upper side. In fact I never get on the ranges until I get further down than where the collision took place that night. Never come on the ranges until I was further down than we were that night.

Q. About what point would a line drawn from where you rounded the point of Puget Island to the upper Skamokowa light cross the Hunting Island range?

A. Well, to run right out on it, it would cross—there is a trap put in—run in pretty well down on Mr. Ostervolt's seining ground; that will cross a line drawn from the ranges just about abreast of that trap, off about 200 feet and probably 100 feet above the trap. The trap wasn't in there that night, but there is an old white tree at the inshore end of the trap that you can nearly always see. Has to be pretty dark or you can see that.

Q. You say that you observed that the oil barge

and the Henderson were not steering well?

A. Yes, sir, I told the man at the wheel. That is about the first thing I said to him, she was steering bad; have to look out.

Q. What did you see upon which to base that statement?

A. I could see from the way we were running on the ranges—they were holding pretty steady—and he was steering around first one way then the other, by the lights. They have forward range light on the Henderson, a little white light on the bow, mast head light. I could see by them the way she was steering.

Q. You mean the ranges were steady or you mean the Henderson?

A. You mean the ranges were steady with us at that time.

Q. You mean the ranges of the Samson?

A. No, the ranges from Hunting Island.

Q. Were you running on the ranges at that time?

A. No, sir, but I could see from the position of them.

Q. How far were you from the Henderson and her tow at the time they gave the first passing whistle?

A. I should think in the neighborhood of half a mile approximately.

Q. How quickly did you answer?

A. Immediately.

Q. What answer did you give?

A. One long whistle; not a long blast but long enough to be heard at night.

Q. How far were you from the Henderson and her tow at the time you received the second whistle?

A. I don't think I was more than about four or five hundred feet away from them.

Q. And did you answer that signal?

A. Yes, sir, immediately.

Q. What answer did you give to it?

A. One whistle.

Q. Now, Captain, at that time what lights could you see on the Henderson and her tow?

A. At the second whistle I saw the red and green light and the white masthead lights and the bright light shining out of her gangway doors. Both gangway doors were open forward and made it awful light around there, and a small white light on her stem; lights along her side; they showed out through the side of her house windows and doors.

Q. At that time I understood you to say your helm was hard aport?

A. Hard over.

Q. What did you do after that second whistle was given?

A. As soon as I let go the whistle string and saw the wheel was hard over, I gave four blasts to back—wide open, and rang both electric push buttons to call the crew out of the hold. The sailors and firemen sleep in the forward forecastle and the oilers, mate and second engineer sleep aft in the aft forecastle, and electric call bells are in both holds to wake them up in case of emergency.

Q. And how long in your judgment after that second whistle was given before the two vessels came together?

A. A very few seconds. In fact I made a mistake there. I was backing before I blew the second whistle. I had given the bells to back before the second whistle was blown.

Q. Captain Jordan, did you observe the lights on the rock barges at that time?

A. Yes, sir, the reflection from them was visible at any time.

Q. You couldn't see the lights themselves?

A. No.

Q. But could see the reflection?

A. Could see the reflection from the lights.

Q. What lights were visible on the scows at that time?

A. White light on the port rock scow from the outside corner; also a white light from the starboard bow on outside corner forward.

Q. How far were you from the Puget Island shore in your opinion at the time the collision occurred?

A. I thought I was off seven or eight hundred feet; something like that.

Q. And opposite what point on the island were you?

A. Opposite what point on the range?

Q. On the island?

A. I was just a little bit below Mr. Ostervolt's seining house, where he lives—just a trifle below.

Q. Where was this seining house Captain Jordan?

A. There is a little slough comes in just above the house—well, a fairly good size slough. I have been in there for logs, and it is just below that; just below the point of the island, I should judge about a quarter of a mile.

Q. You remember the slough which was identified by some of the witnesses here as Grove's slough?

A. That is the one I have reference to.

Q. Were you above or below that?

A. Just below. I could see up in the slough. There was a scow house in there. I could see that tied to the bank or something. I could see the white spot.

Q. There is also in evidence in this case another slough identified, as I understand, as the slough at the mouth of which there is some piling or fish trap. Do you remember that slough?

A. A large slough at the lower end of the island, Cathlamet Slough, I think they call it, and another one further up the island at the lower end of Mr. Ostervolt's seining ground.

Q. Lower end of Mr. Ostervolt's seining ground?

A. Yes, sir.

Q. You remember that slough?

A. I know where it is, yes, sir.

Q. Is that the slough they identified as the one that had some piling in it?

A. I don't know. Some piling there, yes.

Q. This is the slough where I understand there

used to be some fish traps?

A. Yes, there used to be a trap there in the summer time.

Q. How far were you above that slough, in your judgment, at the time of the collision?

A. Probably five or six hundred feet, I guess. I couldn't say positive as to that.

Q. About how far out from the shore does that piling run?

A. Do you mean when the trap is in?

Q. 1911, about how far out did it run?

A. Oh, they are only out a short distance. I don't think they are out more than—well there is some piling right across the mouth of a slough there. Then further down, where the old pilings are, they are out probably 150 feet from the shore. Not more than that.

Q. How far were you from the Hunting Island Range lights in your judgment at the time the collision took place?

A. I must have been inside the ranges 300 feet anyway.

Q. When you say inside the ranges, what do you mean?

A. On the upper side; toward the Puget Island side.

Q. 300 feet you think, anyway?

A. Yes, sir.

Q. What did you do after the collision took place? Did you see the collision take place?

A. Yes, sir.

Q. What did you do?

A. Well, the first thing the port rock scow hit the oil barge just on the bluff of the bow, forward and slid along the oil barge and hit the stem of the Henderson, and about the same time that she hit the stem of the Henderson, the middle scow cut under the bilge of the Henderson just under the forward house—forward port house.

Q. How much does the center barge stick out in front of the port barge?

A. I don't know just how much. I should judge about 50 feet. Somewheres around there. I never measured.

Q. Did you see the center scow hit the Henderson?

A. Yes, sir.

Q. Was that in front or behind where you were in your pilot-house?

A. Right dead ahead.

Q. How far from you?

A. That middle scow, I guess, is about 140 feet long, and it is up probably 35 feet from the pilot house, possibly—making about 175 feet from where I stood to the bow of the scow.

Q. 175 feet?

A. 175 feet from where I stood to the bow of the scow.

Q. At the time she struck?

A. At the time she struck.

Q. What lights were there which enabled you to see it?

A. Well, the white lights were shining out the gangway doors of the Henderson, and also her mast head lights, side lights, and then the light on the rock scow showed to a certain extent too.

Q. Now, Captain Jordan, what became of the oil barge after the collision?

A. She kept right on going.

Q. Did she break loose from the Henderson?

A. Yes, the Henderson was broken loose immediately. They was backing on the Henderson too. I could see her wheel revolving. They were already backing. She broke loose and went around the stern of the oil barge toward the starboard side of the oil barge, back, right under her stern, under the counter. The oil barge kept on her way, I should judge about three minutes until I heard the anchor chains go out.

Q. Did you hear the anchor chains go out?

A. Yes, sir.

Q. Had she passed you at the time you heard the anchor chains go out?

A. Yes, sir.

Q. About how far had she passed you at that time?

A. She was quite a ways by at that time.

Q. You think it was three minutes from that time?

A. Yes, I should judge it was all of three minutes.

Q. How long did you back on that course?

A. Well, I backed between a half and three quar-

ters of a minute, I should think.

Q. Was that before the collision?

A. Just before the collision, yes. I stopped just as soon as the Henderson was loose, I stopped backing.

Q. What did you do then after the collision?

A. I never rang any more bells after the impact of the collision. I hollered and asked the Henderson if they needed any help and they answered they didn't think so or didn't know; I wasn't positive which it was, and I turned the search light on them and saw a big hole in the side of the Henderson. So I hollered to the boys to get the boat over right away, and we would cut loose from the scows or anchor the scows. Some of them ran forward and anchored the two scows and one had the forward breast line broken and a stern line from the starboard. The man on that barge, instead of anchoring the scow immediately he went forward and took a light—he had a light with him, but went forward, set that down and picked the one up that had been on the bow of her and went down to examine his scow.

Q. Did you see that?

A. I saw him as he picked up the other light and went below. I never paid any more attention to him. We had our lines off of him; got the lines off of him, off the port scow, and while the boys were taking the lines off the other two scows, I went out and gave a hand to lower the life boat, and the mate and two sailors got in the boat and went back to the Henderson. While we were still alongside the scows, some

fisherman came out. I don't know who it was. I told him to hurry to the Henderson, they needed some help over there. The Henderson by this time was laying over the starboard side, and the passengers were down on the guard or the scow. I had turned the searchlight on and saw them there and left the light on for quite a while.

Q. What did you do?

A. As soon as we got loose from the scows, we went back to the Henderson. She was drifting towards Tenas Illihee Island.

Q. Was she still drifting when you went over?

A. Yes, sir.

Q. When you went over to the Henderson, did you notice the range lights?

A. I had to cross the range lights to get down.

Q. Did you notice them?

A. Yes, sir, of course I always look to see where I was. I had to look to see where I was in the river; see the position I was in—which way to go.

Q. And when you got to the Henderson, what did you do then?

A. We put the line on her. She was just a little below the ranges when we got there.

Q. And what did you do after you got the line on her?

A. Well, we put a headline out. They wanted us to put our large wire tow line on and pull her over to shoal water. We talked it over between Captain Church, Captain Stimson and myself. We concluded

if we got the big tow line on there, if she did go down, we would be unable to get it off; a big heavy hawser they use for towing outside. So we put the head line on and towed her towards Tenas Illihee Island side. While backing, struck bottom; I hollered to get the line up, she was going over. Several fish boats there and our own boat and I hollered for them to get out of the way so they wouldn't get caught; the house would go over on them when she went over. So they backed away. The boat rolled on over after she hit bottom. She grounded and rolled her back over to the portside. So we left the line on and shoved her on the beach as far as we could shove her. We were there by her and worked with her for an hour and a half, to keep her on the beach so that when the tide fell, she would stay.

Q. When you went to her first and got a line on her, was she aground?

A. No, sir.

Q. About how far do you think she drifted and was towed after you got to her?

A. Well, she went about two-thirds of the way across the river.

Q. After you got there?

A. After the collision took place, between towing and drifting and shoving her in there.

Q. Did you get to the Henderson before the passengers were taken off?

A. No, sir.

Q. Now, when you left the Henderson, Captain,

what did you do?

A. That morning after we left the Henderson, we took the passengers up to the oil barge. She was anchored up under the bluff at Bugby.

Q. Then what did you do?

A. We stayed around the oil barge for a few minutes. Then we went back and picked up our tow, the three scows—rock scows.

Q. Which scow did you pick up first?

A. The one that got loose, we picked up first. That was No. 9, if I remember correctly, the port rock barge.

Q. And where was she at that time?

A. She was way down on the edge of the sand spit, the lower end of Puget Island, well into the beach.

Q. How far was she from Puget Island at that time?

A. I don't think off more than 150 or 200 feet at the most, for we kicked up the mud in there; about all we could do to get hold of her, and she wouldn't steer good after started out. She was in shoal water and I couldn't get her to steer until we got pretty well out.

Q. Then where did you go?

A. Went up alongside the other two anchored above and picked them up.

Q. Where were they at the time you went up there?

A. Where the small slough is with the piling across it; the Ostervolt seining ground, they were

just abreast of that.

Q. Were they anchored?

A. Yes, sir, they were anchored right away after the collision, those two.

Q. When you went to these scows the next morning, did they have lights on them?

A. I didn't pay any attention then. It was fair daylight.

'Q. How far were the two scows that you—

A. (interrupting) I had noticed that night while we were over to the Henderson that the lights were burning on the scows. I looked to see whether had lights on them; saw fishermen around there. I wanted to be sure the boys had lights on the scows so the fishermen wouldn't run into them with their nets.

Q. There were lights on both scows?

A. Yes, sir.

Q. How far were those two scows from Puget Island shore when you went over to pick them up?

A. They was off the beach probably 300 feet. In the neighborhood of 300 feet approximately; maybe 400 but not more than that.

Q. Was it daylight then when you picked up the scows?

A. Yes, fair daylight.

Q. And you could see the shore well on both sides?

A. Yes, sir.

Q. Could you tell exactly where the scows were—I mean the location in the river?

A. Why, yes. Fair daylight; after four o'clock at that time of the year it is daylight; breaks day half past three. I don't remember just what time we got under way with them but I could find out by looking at the log. I know it was after daylight though.

Q. Captain are you acquainted with the currents in the river, down there?

A. Well, I think I am.

Q. How does the current set, commencing, say, off Bugby light?

A. Right in Bugby light it follows pretty well down the Oregon side. Some of the current goes down through Clifton Channel and the rest follows down the main channel or ship channel.

Q. Now, at the point of this bluff that you spoke of, where you say the oil barge was anchored, how does the current set there?

A. As the oil barge anchored that morning, she tailed toward the trap in Clifton channel—right towards the Oregon shore.

Q. That is the way she tailed, was it?

A. Yes, sir, ebb tide.

Q. Where were her anchors, on what part of the barge?

A. Her anchors—of the oil barge?

Q. Yes.

A. Her anchors went out from forward—hawse pipe forward, right in the bow of her—the eyes.

Q. And she tailed down the shore?

A. Right down the Oregon shore, off the beach

probably 300 feet.

Q. Did you ever do any towing down there, which would—of such a nature that you had to advise yourself regarding the current?

A. Yes, sir, lots of times.

Q. What kind of towing?

A. I have towed logs up and down there, and I have towed those Alaska ships out from Clifton there; towed scows.

Q. Now, what is the fact as to there being a current or channel running down Clifton or Prairie Channel?

A. I didn't understand the question.

Q. What is the fact as to there being a current running down Prairie Channel?

A. There is a strong current running down there. Going there with a raft at that time of the year, under those conditions you have to pull pretty hard to keep your raft from hanging up on the point.

Q. What point?

A. The point of Tenas Illihee Island. Going up stream with a raft on ebb tide, the raft will tail right down into Clifton Channel all the time.

Q. Captain Jordan, what is the fact as to the current setting from here towards the Puget Island shore?

A. There is no current sets to the Puget Island shore.

Q. How far down does it set from that shore, if at all?

A. Along the beach it sets just about straight down along the ship channel.

Q. At the point which way does it set? At the point of the island where you turned that night?

A. Right at the point of the island has a tendency to set over to the Oregon shore. There is a buoy in there, they use for a towhead for seining. I have noticed that lots of times, coming up with scows. When a freshet in the river, I like to get out, to keep out of the current that sets right away.

Q. What was your speed that night?

A. We wasn't making more than six miles an hour, I don't think. Of course, I never logged her, but don't think would make more than six miles an hour on that run going down with those three rock scows that tow pretty hard.

Q. Have you any means of telling what the speed of the oil barge was?

A. Only judging from what I heard from the time they left and the time the collision took place.

Q. It is in evidence they left Astoria between 8:45 and 9:00 at night; and it is in evidence that this collision took place about 1:40 the same night. Now what is the distance between Astoria? Did you see her, by the way, anchored at Astoria that night?

A. I saw her that afternoon as we came up with the empty scows from Fort Stevens.

Q. What is the distance from Astoria to the point where the collision took place?

A. I have an old list of lights and buoys that gives

27 miles from Astoria to Ankeny Landing light—that is Bugby light.

Q. How far from Bugby light to this point where the collision took place?

A. The light to the point I guess will be about three-quarters of a mile, or a little bit more; I think somewhere in that vicinity.

Q. Did you ever tow any of those oil barges?

A. I was mate on the Diamond O at one time. We towed one from just outside the Willamette up to Portsmouth.

Q. You don't know the number of that?

A. I am not positive whether 91 or 93 but one of the two of them.

Q. Were you on the towboat when that barge was landed at Portsmouth?

A. Yes, sir.

Q. I wish you would tell the court what is the fact as to their—as to such scow having a momentum which requires you to stop some distance before a landing is made.

Mr. C. E. S. WOOD: Is this oil barge 93?

Mr. MINOR: 91 or 93. They are alike, aren't they?

Mr. SNOW: I don't think it is competent. He doesn't know whether 91 or 93.

A. The barges are practically the same: wouldn't make much difference about that.

COURT: Objection overruled. It goes to the weight of the evidence, not the admissibility.

A. We came through the bridge at St. Johns that morning, and just as we got through the bridge we stopped her, and she carried her own head until she got nearly to the oil dock, and we stopped and checked her headway so as to land at the Standard Oil dock at Portsmouth. From the bridge to the Standard Oil dock must be half a mile there.

Q. At what rate were you towing through the bridge?

A. She was wide open so as to steer good going through there. As soon as we got through stopped her.

Q. What speed were you making?

A. I don't know what we were making. We were going on slow bell before that—hooked on to get through the bridge. Don't suppose making more than four miles an hour.

Q. Did you ever tow other vessels of the same character?

A. I don't know of anything as heavy as that. I have towed the Alaska ships; towed one of them out from Clifton one time to Astoria. I have towed loaded lumber schooners up and down—down rather.

Q. Do you know anything about the momentum such vessels have when they are towed at the rate of, say, three or four miles an hour?

A. Well, I know they will carry their headway a long ways after the boat towing them stops. I have seen them landing a good many times.

Q. Now, Captain Jordan, from your knowledge of

the momentum which such a vessel as this Oil Barge 93 has when being towed at the rate of from three to four miles an hour, how far, in your judgment, would she drift in still water, when she was cut loose from the towboat?

A. Go a mile at least if nothing stopped her.

Mr. SNOW: I object as incompetent. He doesn't know anything about Oil barge 93—says he doesn't.

COURT: On that ground overruled.

Mr. MINOR: It is only preliminary, your Honor. I am going to take the current afterwards.

Q. Read as follows: "Now, Captain Jordan, from your knowledge of the momentum which such a vessel as this Oil Barge 93 has when being towed at the rate of from three to four miles an hour, how far, in your judgment, would she drift in still water, when she was cut loose from the towboat?"

C. E. S. WOOD: That doesn't apply to this case.

Mr. MINOR: I am going to follow with the current.

COURT: No objection made about still water.

Mr. SNOW: I didn't observe that.

Q. How far, in your judgment, would such a vessel drift when cut loose from the tow boat, against such a current as was flowing in the channel of the Columbia River at the point of the collision on the night of July 22, 1911?

Mr. SNOW: I renew the objection to that because the witness doesn't appear to know and doesn't know anything about Barge 93.

Mr. C. E. S. WOOD: Hasn't shown he knows the current that night.

COURT: Objection overruled. But still the hypothetical question doesn't cover the facts; he says the Henderson was backing at the time she struck. Objection overruled.

Mr. SNOW: Save an exception.

A. I think go a quarter of a mile at the least calculation.

Q. Now, Captain Jordan, you observed the tide that night did you?

A. Yes, sir, always do.

Q. What kind of a tide was it?

A. Strong ebb.

Q. About what was the speed of that tide, do you think?

A. I think it was running out about two miles an hour; not any more than that. Two miles is pretty strong current.

Q. You say the Henderson was backing when she struck?

A. Yes, sir.

Q. How long had she been backing, could you tell?

A. I couldn't tell anything about that. I don't think backed very much.

Q. It is in evidence here now she was backing not more than a minute before the collision. To what extent do you think that would affect the momentum of this oil barge?

A. I don't think it would have hardly any effect on it, backing that short length of time.

Q. Did you ever pilot the Henderson?

A. Yes, sir, I was mate on the Henderson for a long time. I used to stand watch with Captain Smith.

Q. You were mate, were you?

A. Yes, sir.

Q. You are acquainted with the boat?

A. Yes, sir.

Q. How long were you on it?

A. I don't remember. I think I was on her something like two months. I couldn't say positive though. I am not sure about that.

Q. You were mate during that time?

A. Yes, sir.

Q. Now, Captain, it is in testimony here that the Henderson was fastened to the oil barge by six lines. Did you hear the testimony in regard to those lines?

A. I heard part of it. I couldn't hear all of it. I heard part of the testimony.

COURT: The evidence is seven inch line.

Mr. C. E. S. WOOD: You want a hypothetical question? Seven inch manila.

Q. The headline, I understand was seven inch circumference manila line with a 7-8" wire pendant. That is right, isn't it?

Mr. C. E. S. WOOD: Yes.

Q. The tow line was inch steel line—and the other lines, as I recall had  $\frac{3}{4}$ " pendants, steel. The breast lines were  $\frac{3}{4}$  and the stern lines were  $\frac{3}{4}$  too.

CAPTAIN SHAVER: I don't know the testimony —7-8—what they are.

Q. Well, they were  $\frac{7}{8}$  or  $\frac{3}{4}$  pendants. It also is in evidence that all these lines were broken by the collision at one time. To what extent, in your judgment, would the breaking of these lines retard the momentum of the Oil Barge 93?

A. We have had about the same conditions and about all you would feel would be a slight jar; wouldn't retard the momentum at all perceptibly. We have had the same experience lots of times with the lines of our scows at Fort Stevens. All you can feel is a slight jar.

Q. Now, Captain, suppose that the Henderson with her oil barge was going three or four miles an hour against an ebb tide, such as you saw on the night of July 22, 1911, and that the Henderson, which was towing her, backed about one minute before the collision took place, and that she collided in the manner which you have described—the Henderson and the oil barge collided in the manner which you have described with the rock barges of the Samson, and all the lines between the Henderson and her barge No. 93 were broken by that collision, how far in your judgment would the Henderson—would the oil barge drift after she was loose from the Henderson?

A. Under the conditions that happened that night, I think she would go a quarter of a mile if nothing stopped her.

Q. Did you see the Skamokowa light that night

when you rounded the point of Puget Island?

A. Yes, sir.

Q. Did you use it at all in steering when you rounded the point of Puget Island?

A. Not after I saw the Henderson coming.

Q. Did you before that?

COURT: Where is Skamowowa light with the range light?

Mr. MINOR: Skamokowa light is this point down here.

Mr. C. E. S. WOOD: Way down below Hunting Island range light. It isn't on that chart at all, your Honor.

Q. In what course do you usually steer when you turn the point of the Island with reference to that light?

A. I run down toward Skamokowa light until I get the ranges in line. As soon as I reach Hunting Island ranges I head straight down the ranges until I open up Bay View light and lower Skamokowa light. Then I swing in.

Q. This particular night I understand you did steer a little way towards Skamokowa light.

A. I just did head for the light and seen these boats down there and says "You will have to hold them up."

Q. Did any officers of the Henderson come on the Samson after taking hold of the Henderson?

A. Yes, sir.

Q. Which?

A. Captain Stimson, Captain Stayton and the Chief Engineer. That is all the officers I remember of. There were some of the crew there I know.

Mr. SNOW: O'Bryan—Chief Engineer O'Bryan?

A. Yes, sir.

Q. Did you have any talk with any of them that night with regard to the accident?

A. I said something to Captain Stayton about it.

Q. Captain who?

A. Stayton.

Q. What did you say to him and what did he answer?

A. There was some conversation about a whistle. I asked him whether he didn't hear the whistle or what was the matter. He said yes. "Well, I wonder you wouldn't give a man a little room anyhow, instead of crowding a man that way." Then he said "something funny"—he thought it kind of queer the way we whistled, only seeing the green light, or words to that effect. That was about all that was said then. He walked away with some of the others that were there.

Q. Did you see the oil barge the next morning when you went over?

A. Yes, sir.

Q. Did you make any examination of her condition?

A. I looked at the port side and saw where the paint had been rubbed off.

Q. Was the appearance that of having been fresh-

ly rubbed off?

A. Yes. Was also black and yellow paint on No. 9 scow where she struck the oil barge.

Q. Did you see that yourself?

A. Yes, sir. Still there when we towed her back after unloading at Fort Stevens.

Q. This scow—did you examine that after the accident?

A. Yes, sir.

Q. What injury if any had that sustained?

A. The port scow, No. 9, had a dent in the bow, as though put in there by the stem of the Henderson or some other sharp instrument, which I am positive was the Henderson's stem, and I think the chock was knocked loose. I am not positive about that. But the middle scow, No. 27, had the deck tore loose from the stanchions and a few of the rock were moved a little on deck.

Q. When did you look at that?

A. As we were going down the river with her that morning, after we were fastened to her.

Q. Did you look at these scows before the accident? Did you examine them before the accident?

A. I wasn't out on them, no, sir.

Q. Hadn't examined them yourself before the accident at all?

A. No, sir, but I am sure they were all right or the man would have said something about it—the scow man.

Q. I want to call your attention to Libellant's

Exhibit 1, and particularly to the several notations made on this exhibit by Captain Sullivan. Now, if, when you rounded the point of Puget Island, the oil barge and her tow had been as Captain Sullivan says she was, at the point marked "Oil Barge E.S." when you first came in sight there, what light would you show on the Samson to Captain Sullivan at that point?

A. All he would be able to see would be my green light.

Q. Your green light?

A. Yes, sir.

Q. Looking from that point to the point where he locates you down there when you first came in sight, the only light he would have been able to see would have been the green light?

A. Yes, sir.

COURT: That would be before you changed your course?

A. Yes, sir, that would be as I was rounding the point here; the only thing he could see would be my green light, starboard light.

Q. Now, as a matter of fact I understand your location at that time was nearer the Puget Island shore?

A. Yes, sir, I was right in close. As I said before there was a fisherman right opposite this light here and I had to hold over to this side to clear him. He showed me a red light as I was coming down.

Q. What light would he have been able to see of your boat, the Samson, if he were where he says he

was at the time, and you were where you actually were at that time?

A. The nearer light would be my green light. The only light he could see positive, the masthead light.

Q. That is what I understand Captain Stayton testified to. He saw the green light first. Now, as you rounded the point of this island and came up the island, as I understand on the island side, what lights would he be able to see, if he continued his course in the direction which he has marked here? You see the direction which is marked. He has two lines, one a straight line and the other a curved line. Witness attention is called to the courses which Captain Sullivan marked on Exhibit 1, from the point where he first saw the Samson to the point where he gave the second whistle.

A. Well, he would first see the green light. As I kept on coming around, and as he gets over here as he says he did, he would only be able to see both of them when he got ahead of me—when he got far enough down to see the range light, my two ranges, then of course he would see both side lights.

Q. Now, he has said that at the time he blew his first whistle, he was at the point marked "X" which is the point to which I call your attention on Exhibit 1, and that, at that time, you were at the point marked with a cross on Libellant's exhibit 1, and that he was sailing in the direction which his course indicates. What lights would he have been able to see at that time?

A. Green lights.

Q. Now he says that at the time the second whistle was blown he was at the point—he gave two locations for that, Captain. I call your attention to the two locations he gave; they are here and here.

A. Where does he say he is?

Q. Was at this point here or at that point there. (Witness' attention called to two points marked by Captain Sullivan.)

A. He was never there.

Q. And that you were either on one or the other of these three locations. The first location which he gave was at that point, and the corrected location which he gave was at this point here and the second corrected location which he gave was this point here. Now, if that were the case, Captain, and you had come from the point where the first whistle was sounded, what light would he have been able to see from this point?

A. Never have seen anything but the green lights if I was in the position he says I was; all he could see; never saw the red light until he got dead ahead of me.

Q. Now, Captain Jordan, knowing the currents as you know them there, if the collision had taken place at the point which Captain Sullivan pointed out as the place of collision, which is here, (Witness's attention called to point on Exhibit 1) in what direction would the oil barge have drifted if she were under a hard aport helm at the time of the collision?

A. She would have went down the river with her

hard aport helm—down Prairie Channel, and the collision could never have happened the way it did, for in this way they would have been meeting—wouldn't have been a head-on collision; we would meet if we was going this way and he this way—they would meet.

Q. On this libellant's exhibit I want to call your attention to where Captain Sullivan locates Ostervolt's house. Is that right?

A. That is right.

Q. And where he locates Ostervolt's seining grounds. Is that right?

A. Yes, according to my view that is about it.

Q. Now, whereabouts was Ostervolt's seining house, as I understand the fishing house?

A. Two houses. A white house in here and another in around a little further down there.

Q. How much further down, Captain?

A. I don't know. I never paid much attention. Only a short distance, though.

Q. Do you remember noticing any object in any of these sloughs about the time or just before the collision?

A. As I got abreast this big slough there was a house boat in there, a scow house, and there was also a little boat here on the beach. The James B. Stevens is her name. She was painted white, and a white house on this little scow which is up in the slough here; also a light in the house here.

Q. A light in his house?

A. Yes, sir.

Q. Now, were you above or below the light in his house at the time the collision took place?

A. Just below it. Just about in here.

Q. Were you above or below the light in the other house—what you call the Stevens?

A. They were close together there; a trifle below that.

Q. A trifle below the Stevens?

A. A very little; almost abreast of them.

Q. Mark where in your judgement; abreast of what place in your judgment the accident took place.

A. Is this the line of the ranges? Out here some place.

Q. Put your initials underneath that, will you, "C. J."

A. Another "C. J." That isn't mine.

Q. No, that is Charles Johnson.

Mr. C. E. S. WOOD: We will call it "Q."

Q. Now, where were the rock barges when you picked them up the next morning? You can take the other chart.

A. This is good enough. There was two rock barges right in here. (Indicating.)

Q. About 200 feet I understood you to say.

A. 250 feet off shore; something like that.

Q. Mark that one, will you. Put "R" there.

A. Here is the other one down here on this sand bar here.

Q. Put your initials there.

A. Now, I am not putting them exactly off shore, that is the exact distance off shore, but that is about abreast where the collision took place.

Q. I wish you would also, Captain on this same chart, Libellant's exhibit 1, place where the Henderson was when you left her the next morning, as nearly as you can.

A. Where is Tenas Illihee Island?

Q. Here.

A. This the upper end of it?

Q. Yes.

A. She was right over in here some place.

Q. How far was she off the island?

A. Off quite a ways. 27 feet of water there if I remember correctly. Be probably out in there some place. That chart is bigger than the other one. That is close enough.

Mr. ERSKINE WOOD: You mean she was lying in 27 feet of water?

A. Yes. That is about right.

Q. You said that chart was large and bothered you. I wish you would take this chart which I now show you, and which is marked Claimant's Exhibit A, and on this chart mark the place where you were when you first saw the Henderson and the oil barge—where the Samson was.

A. Where the Samson was?

Mr. C. E. S. WOOD: Where the Samson was when you first saw the oil barge and the Henderson.

A. I Just come around this point here.

Q. Put "A" there. (Witness does so) Now, put where, in your judgement the oil barge and the Henderson were at that time, as nearly as you can tell. (Witness does so.)

A. Well, I think they were off in here some place. Of course a long ways off down the river. It is hard to tell.

Q. Mark that B. And on this same chart put about where you think the collision took place. (Witness does so). Mark that "C". And where the two rock barges were the next morning. (Witness does so.) We will mark that "D"; And where the third rock barge was the next morning. (Witness does so.) We will mark that "E". And where the Henderson was the next morning. (Witness does so.) We will mark that "F". Now, mark on this same chart the upper Skamokowa light.

A. The upper? (Marks on chart.)

Q. Yes, and mark that "G". And mark also Buggy Hole light.

A. (Marking) There is Ankeny landing; that is where the light used to be, but it is further down here now.

Q. You say the light used to be at Ankeny landing?

A. Yes, used to be up here. (Indicating.)

Q. It is further down now?

A. Yes.

Mr. SNOW: Where was it that night?

A. Further down. It is further down now than

what it used to be.

Q. We will mark that "H". I wish you would also put as near as you can where the Hunting Island lights are.

A. In here some place. (Marking.)

Q. Does this line—does a line from these lights run nearer the Puget Island shore or the Oregon shore?

A. Puget Island.

Q. How much nearer, do you think?

A. About a third of the way out from Puget Island to Tenas Illihee Island side. About one third of the distance across here, where the ranges come up; probably a little more. (Indicating.)

Q. We will mark the lights "J" and "K"—Hunting Island light. Was there anything, Captain, which you could do, to avoid that collision which was not done by you, that you know of?

A. Nothing that I know of, no, sir. I done everything possible that I could think of to avoid the collision.

Q. Did I understand you to say that you yourself saw the port barge of the Samson's tow strike the oil barge or the Henderson?

A. Yes, I did.

Q. Which did she strike?

A. The port scow struck the oil barge first—the forward bow of the port scow, and swung in against the oil barge—and swung in against the oil barge and rubbed along, pretty near the full length of the rock

scow. She struck about 25 feet ahead of the bow of the Henderson on the oil barge.

Q. Did she strike the Henderson at all?

A. Yes, sir, she went on down and struck the stem of the Henderson.

Q. Did you see the collision between the port barge and the stem of the Henderson?

A. Yes, sir, I could see it. It all happened right in front of me.

Q. Did you see the middle scow strike the Henderson?

A. Yes, sir, went right under the guard of the Henderson.

Q. Captain, if the port scow or barge of the Samson and her tows, had struck the Henderson such a blow as the Libellant claims just aft of the house, what would have been the effect of such a blow, had there been no glancing blow at all upon the oil barge?

A. Well, if she would have struck the Henderson, wouldn't have hurt the oil barge any, but wouldn't have been anything left of the Henderson.

Q. Wouldn't have been anything left of the Henderson?

A. No, sir, wouldn't have picked up any at all.

Adjourned until 1:30 p. m.

Friday, January 10, 1913, 1:30 p. m.

CHARLES JORDAN resumes the stand.

Direct Examination continued.

Mr. MINOR: If your honor please, I don't think

I offered this chart in evidence. I will offer it now.

Chart on which Capt. Jordan detailed positions marked "Claimant's Exhibit A:"

Questions by Mr. MINOR:

Now, Captain, calling your attention again to Libellant's Exhibit 1, if the Henderson and her tow were running on the course indicated by Captain Sullivan, between the point where he first saw the Samson and the point where the collision took place, and the Samson was running from the point where he first saw her to the point of the collision, what light of the Samson would be visible to the Henderson and to the oil barge?

A. The green light.

Q. The green light only?

A. The green light from the Samson only.

Q. And what light of the Henderson and the oil barge would be visible to the Samson?

A. The red one.

Q. Would the green light be visible at all?

A. No, sir.

Q. Captain, you testified the center barge sticks out in front of the starboard and port barges about 50 feet, or something over that. I think the actual distance is 55 feet. What, in your judgement would be the effect of the center barge upon the light on the port barge if the Henderson were running on the line which she indicates, and you were going up with the Samson as I have just called your attention to?

A. You mean as to whether they could see the light on the port barge.

Q. Yes.

A. I hardly think they could see it. I think the middle scow sticking out so far would obscure the light on the port scow.

Q. Captain, I now call your attention to Libellant's exhibit 2, introduced in evidence by Captain Sullivan. The testimony of Captain Sullivan is that when he first saw the Samson the Henderson and the oil barge were at the point F, and the Samson was at the point K, and he has marked on this course of the Henderson and her barge to the point of collision, and the Samson and her barges to the point of collision. Now, if the Henderson and the oil barge were at the point F, and the Samson was at the point K, what light of the Samson would then be showing to the Henderson and the oil barge?

A. The green light.

Q. Would the red light be showing?

A. No, they couldn't see it.

Q. When the Henderson was running on the course F-G, what light on the Samson would be in sight from the Henderson and the oil barge?

A. Nothing but the green light besides the mast-head light. Of course could see that. The only colored light he would see would be the green one of the Samson.

Q. Now, he says at the time the Henderson or the oil barge gave its first signal, the oil barge was at the

place marked with the figure "I", and the Samson and her tow were then at the point marked "L", the Samson running on the course which you see marked here, from K to L, and the Henderson and her barge running on the course from G to 1, what light on the Samson would then be visible to the oil barge?

A. They couldn't see anything but the green light with the exception of the white masthead light.

Q. From that point and while they were on that course, what lights of the Henderson and the oil barge would be visible from the Samson?

A. Red light and mast head light.

Q. Would the green light be visible?

A. No, sir, couldn't see it. It wouldn't shine across the bow.

Q. When the Henderson and the oil barge were running on the course between 1 and 2, and the Samson was running on the course between L and I, what lights visible from the Henderson and oil barge on the Samson?

A. All I would see would be their red light until I got right to the point of collision, then if exactly head on, would see the green light too.

Q. What lights of the Samson would then be visible?

A. All they would see would be the Samson's green light until right head on. Then might possibly see the red light at that time.

Q. Turn now, Captain, to Complainant's Exhibit A. I understand that when you first saw the Hen-

derson she was about the lower point of the island?

A. Yes, sir.

Q. And you were rounding the point of Puget Island?

A. Yes, sir.

Q. Now, I understand that from that time on you came up on a port helm, close to the shore of Puget Island?

A. Yes, sir.

Q. What course was the Henderson and her tow pursuing?

A. It looked to me as though she had got above the ranges here, and she held above them quite a ways; was in pretty close here, and then when they got the port helm, they begun to haul out and was in about here somewhere.

Mr. C. E. S. WOOD: If "here" is of any importance, better mark it.

Mr. MINOR: That is the point of the collision.

Q. Now, Captain, if you were running on that course, and she was running on the course which you have defined, what lights would you see and what lights would she see?

A. I don't think they would see more than my red light. Might possibly, if not over enough, at that angle they may see both of them, but they would be sure to see the red one.

Q. What light would you see?

A. I would see her red light.

Q. Would you see the green light too?

A. It is possible I could see her green light.

Q. What lights did you see on the Henderson that night as she came towards you?

A. I saw the red and green light.

Q. Did you see them all, both lights all the time?

A. And the mast head lights.

Q. Did you see both red and green all the time?

A. Yes, sir; the green light seemed to shut out for an instant once, but I think because went behind a stay or foremast of the vessel as she swung.

Q. At what time did the green light disappear entirely?

A. Not until I got right to the bow of the oil barge, head on, within 100 feet of the bow of the oil barge.

Q. Captain, what bells did you give after the collision?

A. After the collision I only gave one bell.

Q. What was that?

A. Stop backing.

Q. Stop and back?

A. No, to stop backing.

Q. Stop backing. Did you give any bell after that time?

A. Not until I let go the scows; after the barges were anchored, then of course I rang bells in order to get away to go to the Henderson.

Q. How did you get out from the scows?

A. Backed her.

Q. Did you give a bell for that purpose?

A. Gave two bells to back.

Q. There is some testimony here that just at the time or before the collision, some one from the Henderson or from the oil barge sung out to you to back—stop and back, or something of that kind. Did you hear anything of that?

Mr. SNOW: That is not accurate. They sang out from the oil barge to the Henderson, not the Samson.

Q. From the oil barge or the Henderson?

A. I never heard a word from any of them until after the collision.

Q. How does the Samson back?

A. Backs to port. That is her stern goes around to port.

Q. In what direction would that throw her barges?

A. Starboard, towards the Puget Island side of the channel the way we were going that morning.

Q. Captain, if the Henderson were lashed to the oil barge so that her bow would be about 180 feet from the bow of the oil barge, and she was struck by the port rock barge of the Samson just in front of the house, in what direction would that tend to drive the oil barge?

A. Well, if it had any effect on the oil barge at all, it would swing her bow around to port, towards the Puget Island side; she was headed up the river.

Q. How much freeboard is there on these rock barges when loaded.

A. When towing the decks are nearly awash, but

laying still there is all the way from six to ten inches, according to the way they are loaded.

Q. And how much is their bow above the water?

A. About thirty inches. Thirty inches the highest point of the sheer.

Q. If the oil barge was struck a glancing blow by the port barge of the Samson as you have described, would that, in your judgment, break the headline between the Henderson and the oil barge?

A. It might.

Q. Well, if it did break that line, Captain, what tendency would that have upon the course of the oil barge?

A. Striking far enough ahead of the Henderson, in my opinion where it struck, the only tendency it would have would be to shove her broadside down the river toward the Prairie Channel.

Q. Captain, did you ever notice the effect of going towards this bluff and Bugby Hole on a dark night?

A. Well—

COURT: (Interrupting) He has testified to that has he not?

Mr. MINOR: I don't think so. He testified about going into Bugby at night.

COURT: Maybe it wasn't effect; it was to appearances.

Q. I want to get the appearance of the bluff as you go in there.

A. Well, just like going in—

Mr. C. E. S. WOOD: (Interrupting) Up or down stream?

Q. Going down or up stream either.

A. Like going into a black hole; looks as though no way out of it at all, and pretty hard to judge distances from either bank.

Q. Is it as difficult or more difficult to judge the distance from the bank going into that bluff as going toward a shore comparatively open or level?

A. Yes, a great deal harder to tell. Almost impossible to tell the real distance fair. I don't think anybody can judge it on a real dark night.

Q. Are you acquainted with how towing is generally done going up the river around Puget Island?

A. Yes.

Q. On which side of the river do boats going up usually go?

A. They keep toward the Puget Island side, follow ranges.

Q. Did you ever observe Captain Sullivan coming up the river?

A. Yes, paid attention to him three different times this summer.

Q. How does he come?

A. I watched him three different times; took my glasses to be sure it was him, and he crossed the ranges and was above the three different times. Once was either the "Beaver" or the "Bear," and the other times steam schooners. I paid particular attention.

COURT: Those are the only times you watched?

A. Yes, that is the only times I saw him there. That was in daylight when I could see; broad daylight, in the afternoon.

Q. You said something about the bow of the Henderson striking the rock barge, the port rock barge, making a dent in it. Did you ever have any experience with vessels of that character striking vessels like the rock barge?

A. Well, we have hit them with different boats I have been on.

Mr. C. E. S. WOOD: Objected to as immaterial. Objection overruled.

Q. Now, they have some evidence showing no dent in that.

A. I have been on the Samson, the Kern and different boats when they have hit barges, and also the Wauna one time, and she hit the boomstick at the end of a raft and broke the boomstick in two, and no break on the Wauna's stem at all. Another time the Samson went in to the middle scow; they was making up a tow; a mistake made; got into the scow about 20 feet; didn't hurt the Samson a bit; could hardly see a mark on the stem.

Q. From your experience with other vessels under like circumstances, what effect in your judgment would the striking of the stem of the Henderson upon the port rock barge in the manner that you say you saw it strike, have upon the stem of the Henderson?

A. It might bend the stem iron a little, but possibly wouldn't bent it at all, a big heavy iron.

Cross Examination.

Questions by Mr. ERSKINE WOOD:

Captain, this collision was investigated by the United States Inspectors, wasn't it, first in a preliminary investigation for their own benefit?

A. Yes, sir.

Q. You testified in that preliminary investigation?

A. Yes, sir.

Q. Did you not?

A. Yes, sir.

Q. Then you were tried before the Inspectors and you testified again in your trial, did you not?

A. Yes, sir.

Q. Have you talked—I suppose you have talked with your attorneys to give them an outline of your case—you have told it to them, haven't you?

A. Oh, yes.

Q. So the result is you have been over this story of this collision a good many times, haven't you?

A. No.

Q. Well, you have been over it at least three times?

A. Oh, yes, two or three times I talked the thing over before the Inspectors about it.

COURT: I believe it is admitted there was no wind that night to prevent the whistles being heard.

Mr. MINOR: Not at all, as far as I understand.

Mr. C. E. S. WOOD: I think the evidence is dark clear night. Air clear but dark—no wind.

Q. I show you claimant's exhibit A, Captain Jor-

dan, which you marked, showing location of the boats at different times. You gave your compass courses when you first started your testimony, and the compass bearings are indicated on it. I wish you would just show the compass courses as you go past Coffee Island through Bugby Hole.

A. How do you mean?

Q. Draw a line how you ordinarily run. You said you always steer by compass.

A. Yes, sir. (indicating.)

Q. What is that course?

A. That is the course from Pancake Point down to Bugby Hole.

Q. What is that course?

A. I will have to look at the book to tell you.

Q. We want you to plat on the chart your compass course.

A. I do that coming by Coffee Island.

Mr. C. E. S. WOOD: How can you make the points of the compass without knowing it?

A. I have land marks to go by.

Mr. C. E. S. WOOD: I want you to plat north by northwest.

A. I don't know as I could do that. I never studied navigation outside; could not. Our compass won't jibe with that.

Q. You can indicate on this map as near as you can the compass courses you steered. You say you use land marks on that; before you said you used the compass.

A. I do.

Q. Then draw the compass course on the map.

A. I don't understand what you mean.

Q. If you can't do it exactly, then do it as near as you can.

A. That is where I steer. That is where I go by compass; that is where the compass will take me to.  
(indicating.)

Q. Don't you know what that course is?

A. Not until I look at the book and tell you.

Q. All right, look at it then.

Mr. C. E. S. WOOD: That isn't the point. He has now located the course by land marks; what we want is the book course.

A. Northwest by west, half west.

Q. Put it on there.

A. How do you want me to put it, figure it out here? Just the same as we would by boat?

Q. Northwest by west, half west.

A. You have not made the mark here.

Q. There is the compass.

A. There is the compass, yes, but you have no points on there; have it by degree.

Q. Don't you know the degrees?

A. I have never steered by degrees, I know what they are,  $11\frac{1}{4}$ , but we steer—I gave the course on the chart.

Mr. C. E. S. WOOD: (Indicating) You plat from this as the compass, this particular course?

Mr. MINOR: He says his compass not according

to this.

Mr. C. E. S. WOOD: He can explain that later.

A. (Explaining on chart) Now, one of these is the true, one is the magnetic. This compass nothing like ours at all. Hard to draw a diagram of that course without the compass.

Q. Do you know the difference between that compass and yours?

A. No, I don't. Nobody does. Hasn't been adjusted for years.

Q. Yours hasn't?

A. No.

Mr. C. E. S. WOOD: We will take what we can get. We will take it on that compass.

A. That is where she steers according to our compass. Now, It is not right on this compass.

Q. That is the course she steers coming down from Coffee Island?

A. Yes, sir, from that compass. Not on ours by a long ways.

Q. How long since your compass has been adjusted?

A. I don't know. Never been adjusted since I been on the boat.

Q. How do you know it is reliable? How do you steer by it?

A. Steer by it every night. If anything wrong would soon find it out.

Q. Well, you say you can't make out the river as indicated here, by compass course. Use the land

marks or anything you want to and show me the general course down there.

A. Well, I can't see the lights. I can't show you—

Q. That is enough.

A. Now, here is another thing. We didn't go over here that night.

Q. This is your usual course?

A. That is the usual course.

Q. First then, coming down past Coffee Island, you steer a course as indicated by a line drawn from "N" to the point "M." Is that it?

A. Yes, sir.

Q. Then you steer a course as indicated by the line drawn between the points "M" and "O".

A. Is that correct?

Q. Then you steer a course as indicated by the line drawn from the point "O" to the point "K". Is that correct?

A. Yes, sir.

Q. Now, you testified first that you steered there solely by compass?

A. I said that we generally steered by compass.

Q. You don't use the land marks?

A. Not all the time. Sometimes we do. Sometimes we don't.

Q. Well, running at night?

A. A good deal owing to circumstances. Sometimes steer by compass, sometimes don't, but generally steer by compass.

Q. Didn't you say when you first testified you al-

ways steer on that part of the river by night by compass?

A. Said generally steered.

Q. Didn't say always?

A. Didn't say always, no.

Q. If you generally steer by compass, I want you to explain to me how you can do so with this old compass you don't know whether accurate or not, or don't know when last adjusted?

A. I know the compass is right but not adjusted to this compass here.

Q. How do you know it is right?

A. Because we use it every day.

Mr. C. E. S. WOOD: Then why isn't it true with this one?

A. No two compasses alike; they are all different.

Q. You said you passed a fisherman that night in Bugby Hole?

A. Yes, sir.

Q. What light did he show you?

A. Red light.

Q. Which made you pass which way?

A. Made me go to the starboard side of the channel, going down.

Q. Puget Island side?

A. Puget Island side.

Q. Did you haul over pretty far or not?

A. Yes, hauled pretty well over.

Q. Gave him plenty of room?

A. Yes, sir.

'Q. Show there about the course you steered when you left your usual course and went over to avoid the fisherman.

A. (Illustrating on Exhibit A) As near as I can get at it.

Q. Do you mean to draw that line down until it intersects this?

A. No, sir. That is where I changed my course.

'Q. I asked for the course you steered.

Mr. C. E. S. WOOD: That is the night of the collision?

A. That is what he asked me,—where I was that night.

Mr. C. E. S. WOOD: You are talking now about that?

A. Yes, sir.

Q. Then in order to avoid the fisherman in Bugby Hole you steered the course as indicated by the line drawn between the point "P" and the point "Q"?

A. About that.

Q. Then where did you steer from the point "Q"? Draw it on there.

A. This line was not straight. I had to go easy here. I had to keep—it was getting out here, coming this way.

'Q. You do it where you want it. I will ask you just to follow out your course, marking with a pencil from the point "Q" until the collision.

A. Well, I steadied up a little at this line. Here began to put her hard over.

Q. The line drawn from the point "Q" to the cross marked "C" indicates your course up to the time of the collision?

A. Yes, sir.

Q. How far do you suppose you were off the bend of Puget Island there when you met the fisherman?

A. I don't know. I know I was closer to Puget Island side than to Bugby side.

Q. I know, but I asked about how far do you think you were.

A. Probably about 400 feet.

Q. About 400 feet?

A. About, probably. I don't know for sure.

Q. This is all approximate. I am not trying to crowd you into exact statements. At that time you had seen the Henderson?

A. No, sir.

Q. Where were you when you saw the Henderson as indicated on this chart?

A. I was about here. (Indicating.)

Q. When you first saw the Henderson?

A. About that.

Q. When you first saw the Henderson, you are at the point marked "R"?

A. Yes, sir.

Q. Now, I understood you to say, Captain, that when you first saw the Henderson, you were down at the point marked "A".

A. That is where the fisherman was.

Q. That is where the fisherman was?

A. I saw the Henderson just as quick as I could see around this bend. Probably up a little higher this way.

COURT: Is that a low point?

A. The land is low, but there is timber on it, trees.

Q. What is the point "A"?

A. That is where the fisherman was, I believe. Wait until I look this over. Let's see. I guess "A" is where I seen the Henderson all right. Just inside the point.

Q. Mark it.

A. It is marked there now. There would only be about 300 feet there anyhow.

Q. But you think you were about 400 feet off Puget Island shore at that time, when you first saw the Henderson?

A. I think so.

Q. And at that time were swinging on a port helm?

A. Yes, sir.

Q. Above the ranges?

A. Yes, sir.

Q. And where was the Henderson at that time with reference to the ranges?

A. Well, it would be hard for me to tell, but from where I was it looked to me about here, about on the ranges somewhere.

Q. About the ranges abreast of Puget Island?

A. Down here about the point some place.

Q. You mean abreast of Puget Island?

A. Yes, sir.

Q. The lower point of Puget Island, I should say. How far did you run on a port helm, from the point marked "R" where you say you first saw the Henderson?

Mr. C. E. S. WOOD: He corrects that to "A".

A. I corrected that and put it here at "A" where I first saw the Henderson.

Q. Perhaps you better draw the course as you think it is now.

A. It is the same thing; it is where she came right down here to "A"; same thing. This is "A" right here.

Q. "A" is the point marked in the river. You still think that "R" is approximately the right place?

A. For the fisherman?

Q. No, for where you were.

A. No, I don't. I think a little further up here. Right here, as quick as I got around the point of that island, I could see the Henderson.

Q. How long did you run from the time you first saw the Henderson until you got a whistle?

A. I don't remember how long it was.

Q. I know; I don't want you to say exactly, but give me your best judgment on it.

A. Probably a couple of minutes.

Q. Probably a couple of minutes, port helm all the time?

A. Yes, sir.

Q. Then you got his one blast and answered it?

A. Yes, sir.

Q. Told your man to put your helm under port?

A. Told him to port a trifle.

Q. Told him to port again. At that time how far were you from Puget Island shore?

A. We were down a little further then. We were probably off about 800 feet at that time.

Q. You had come from 400 feet off to a point 800 feet off?

A. Working down the river all the time, yes, sir.

Q. On a port helm?

A. On a port helm. The island draws away here. Draws off more to the easterly; you can see the course.

C. E. S. WOOD: Doesn't by your course, though.

Q. No, I don't think it shows that. How far did you run then, after getting his first whistle on this helm you had put more to port?

A. Probably 800 feet.

Q. Run about 800 feet down the river?

A. I should think so. Something like that.

Q. And how did that put you in relation to the Puget Island shore?

A. Well, I don't think I was any closer to the shore, but she was heading in towards the beach more. The current was setting away from here all the time.

Q. But hadn't got nearer the shore?

A. She probably worked in a little but not much.

Q. Now, Captain Jordan, I understood you to say

that when you first saw the Henderson, you noticed she was steering badly?

A. Yes, sir.

Q. You were a little nervous about it?

A. No, I wasn't nervous at all.

Q. You told your man would have to give her plenty of room, and get well over?

A. Yes, sir.

Q. That is when you first saw her?

A. Yes, after I had watched her a little.

Q. And she kept coming right at you with both lights blazing?

A. Yes, I could see them. They weren't blazing.

Q. How?

A. I could see them.

Q. Both side lights showing bright.

Mr. C. E. S. WOOD: Now, indicate the actual course you ran with this chart—this big chart.

Q. Lay that, Captain. The actual course you ran that night, showing how you avoided the fisherman.

A. Where is Coffee light?

Q. It isn't on there.

A. Pretty hard to do it.

Mr. C. E. S. WOOD: Here is the shore of Puget Island.

A. Where is your light here—Bugby light?

Mr. ERSKINE WOOD: It isn't on there either, his range light.

Mr. SNOW: Mark the range light on there.

A. That won't do, to guess at it.

Mr. C. E. S. WOOD: Well, we will take another map. (Gets another map.) The thing I most want to draw your attention to is how you said you were running down there. Here is Puget Island shore. (Chart later marked Libellant's Exhibit 17.)

Mr. ERSKINE WOOD: Now, start in at the island and draw your course as near as you can.

A. I can't see that. Here is where the fish boat was in here, and I hauled over to avoid him, and I kept on down, working for Skamokowa light, like this. Had a little port helm to keep her into the beach. As soon as I was down far enough to see the Henderson, she was some where in about here. I kept port helm on her going in here.

Q. Go ahead down to the point of collision.

A. Down to the point of collision. Is this Grove's slough here?

Mr. C. E. S. WOOD: Yes.

A. Here is where she was hard aport.

Q. Now mark the point of collision. "A" is the point of collision?

A. Yes, sir.

Q. "B" is where you first saw the Henderson, where you were. And the fisherman?

A. Just above it here.

Q. You don't mean the fisherman right across. You said hauled out quite a way above.

A. I had to haul out to turn.

Q. I understood you to say you cleared him by a good distance.

A. Quite a ways to port side, yes.

Q. "C" is fishing boat passed by the Samson. Now, just to recapitulate, to see that I get this right. At the point where you passed the fisherman you were about 400 feet off Puget Island shore?

A. I think about that. It was dark; impossible to tell.

Q. And very soon after that you sighted the Henderson?

A. Yes, sir.

Q. About how far had you run?

A. Well, I say I don't know how far I run.

Q. I know. About?

A. Probably three or four hundred feet, maybe.

Q. You are still approximately about 400 feet off the shore?

A. Yes.

Q. Then you ported your helm still more?

A. Not immediately, no.

Q. Not immediately?

A. No, she had a port helm then.

Q. When did you then give the vessel more of a port helm?

A. When I got further down and got one whistle, and I began to port.

Q. You didn't give additional port helm until you got his first whistle?

A. No, sir.

Q. How far had you run then?

A. We probably had got down in here some place.

Q. I suggest you use that scale. "D" is the point where the Samson was when the first whistle was blown from the oil barge. And about how far had you run from the point "B" to the point "D"?

A. From where?

Q. From the point where you first saw the Henderson until you got the first whistle; about how far had you run?

A. I suppose I had got down in there about 800 feet.

Q. Port helm all the time?

A. Yes, sir.

Q. Then you got the first whistle and you gave an additional port helm?

A. I gave him a little more port helm after I got the first whistle, yes, sir.

Q. And you ran on that helm how far, or how long, whichever you wish?

A. Well, I ran until I got down about a little above this Grove Slough here.

Q. About how far was that—just from your memory? Don't try to guess from the chart. Just about how far do you think you ran?

A. I think would be about a thousand feet; in the neighborhood of a thousand feet.

Q. And you ran a thousand feet from the point of the first whistle on a fairly strong port helm?

A. Yes.

Q. Just mark that; the next place you reached on that port helm.

A. Well, I suppose got down about here; just above the mouth of Grove Slough.

Q. Did you change your helm there?

A. I couldn't tell the exact spot of change of helm, but I suppose probably gave a little more port helm there.

Q. A little more there. Ran from point "D" to point "E", approximately a thousand feet, on a little more port helm. At the point "E" had you received the second whistle yet?

A. No, sir.

Q. Gave her a little additional helm though?

A. Yes, sir, I could still see both of his lights, both of his side lights.

Q. Where had you got when you received his second whistle?

A. I was within about 400 feet of him, as near as I can judge. Call that 400 feet from there to the point of collision.

Q. Point "F" marks the position of the Samson at the second whistle, being about 400 feet from the point of the collision. Then you put your helm hard aport?

A. Put it hard over.

Q. And how far were you from the Puget Island shore then?

A. Well, I think I was off about 800 feet.

Q. Still off about 800 feet?

A. I think so.

Q. Then you had proceeded from the point "B"

which is approximately 400 feet off this Puget Island shore to the point "F", which is approximately 800 feet off the Puget Island shore on a port helm all the time, and hadn't got—instead of getting nearer to the island shore, you got further away from it.

A. I think she drifted down, yes, sir.

Q. Drifted down?

A. Away from the island, on account of the current setting her off.

Q. The current then sets away from the island?

A. Yes, sir, on this point here, along through here.

Q. And how far do you think the point of collision was from the shore?

A. I said about 800 feet I think.

Q. I understood you to say that the point marked "F" where you put your helm hard aport was 800 feet.

A. I understood you to ask where the point of collision was.

Q. All right. How far off were you at the point marked "F", where you put your helm hard aport?

A. About the same, for the collision happened immediately after that. Would be a very few feet.

Q. Captain, when you first saw the Henderson, you noticed her shutting out her green light, I understand, or very soon after that?

A. It was out for just an instance, once.

Q. Only once?

A. Once or twice.

Q. Once or twice?

A. I am not positive which.

Q. How far were you from the Henderson then?

A. I don't know.

Q. I know, but you can give approximately.

A. Well, it was just after we first seen her, so I was up in here some place.

Q. Where do you think she was?

A. Down at the end of the island some place.

Q. About the range you said, I think.

A. I suppose she was some place on the ranges.

Q. You think she was?

A. I suppose she was. I couldn't tell the course exactly.

Q. Is that about it?

A. I will put my mark; some where near. I think she was about on the ranges, if anything above, because he always comes in here, about where I thought he was.

Q. Above the range?

A. Yes, sir.

Q. "G" is approximately the Henderson at the time he first saw her. At that time you had an idea she was steering bad?

A. Yes, sir.

Q. What made you think that?

A. Watching her.

Q. Why couldn't you tell whether she was on the range or not?

A. She was so far down, dark night. I wasn't exactly sure whether on the ranges or not; thought she was above them.

Q. You say so far down. How far down would that be, about?

A. I don't know how far it is from the slough to the island, or from here to the point of the island. I suppose that is about a mile down there, I suppose—three-quarters.

Q. You think that is all it is?

A. I think; I don't know.

Q. Been piloting up and down there for ten years, haven't you?

A. No, sir, eight or nine.

Q. All right. You think that about a mile apart?

A. I think so, from this point of the island to the other point.

Q. From the upper point of Puget Island down to the lower point of Puget Island, he estimates a mile.

Mr. C. E. S. WOOD: No, not the upper point. The upper point or end of the island around which the Samson was coming.

Q. You estimate that to be a mile from there to the foot of the island?

A. Three-quarters of a mile, I should think.

Q. I say a mile from the bend of Puget Island in Rugby Hole down to the foot of Puget Island. Is that right?

A. I suppose that is about so. I don't remember exactly.

Q. I want you to explain to the court and to me why, if you saw the Henderson down here and were

apprehensive at that time that she was steering badly and you would have to give her plenty of room, that you ran from the point "B", from where you first saw her, down practically to the point of collision, down to the point "F", 400 feet from the point of collision, all the time seeing that you were not getting nearer Puget Island shore, and yet not making any effort to.

A. I kept giving her port helm all the time.

Q. Why didn't you give her hard aport helm?

A. I thought he would get away; I supposed he would naturally give some room, after giving one whistle, so I had to pull down and let him have some room.

Q. I understand her side lights were coming right for you all the time?

A. Yes, sir. That is the reason I kept giving port helm to get away.

Q. Still not seeing you were getting closer to the island, but on the contrary getting farther away, why didn't you give hard aport helm?

A. I gave her hard aport helm just before the second whistle was given ; she was swinging; heading toward the island all the way. I couldn't do more than keep her that way but she was going down broad side.

Q. Didn't you think it was your duty when nervous about his bad steering and trying to give plenty of room, when you were not getting closer to the island but further away, don't you think it was your duty to put your helm hard aport?

A. She was going over all the time. Giving more port helm all the time.

Q. Wasn't she going away from the island?

A. I couldn't help that; the boat wouldn't shove the scow in. That is all there was to it.

Q. Could have by giving hard aport helm, couldn't you?

A. I don't think so; would have laid right across the current with hard aport helm.

Q. Do you mean you couldn't control the tow there?

A. Not to get in the island that short a space, no, sir.

Q. How short a space is that?

A. About half way down; probably be half a mile, if a mile from this point to that (indicating). We was about half way down when the collision took place.

Q. Are you positive, Captain, that you only had your helm hard aport while you ran a distance of about four hundred feet to the point of collision?

A. Well, she didn't have more than about four spokes to go to get her hard over.

Q. And you are positive only ran about 400 feet on the hard aport helm?

A. Am not positive how far it was. Am only guessing at that.

Q. I say you are positive about that—in that neighborhood?

A. Somewheres in that neighborhood, yes, sir.

Q. How long does it take you to run that far?

A. It don't take but a very short time.

Q. How long?

A. Few seconds.

Q. Few seconds?

A. Yes, sir.

Q. Couldn't have been a minute, could it?

A. Oh, it might have been in the neighborhood of a minute.

Q. Do you think it could have been two minutes?

A. No, sir.

Q. You are sure of that?

A. Sure it wasn't two minutes from the time the second whistle was blown until the collision happened.

Q. That is the same as saying it wasn't two minutes from the time you put your helm hard aport until the collision?

A. No, I don't suppose it was hardly two minutes. She was so near hard aport, what little port helm I could give her would have little or no effect on the rudder.

Q. You were then practically on hard aport helm longer time?

A. Yes, sir.

Q. How long were you under practically hard aport helm?

A. Well, was practically hard aport for about two-and-a-half minutes before the collision took place.

Q. And she had been running in that distance about how far?

A. Not so very far. I don't know just how far she would go.

Q. Well, you have been on her for a long time. You must know something about her running.

A. The way the current was that night, probably about six or seven hundred feet. No, she wouldn't there; she wouldn't go that far.

Q. In two-and-a-half minutes?

A. 600 feet probably.

Q. Are you sure of that, Captain?

A. No, I am not sure, I am just judging from distances here.

Q. Never mind that. Never mind the scale on the chart. Remember the night as far as you can. Do you think she would go about 600 feet in two-and-a-half minutes?

A. I expect so.

Q. Then how would she go 400 feet in about thirty seconds?

A. Well, I say I am just judging from the time the collision took place, etc. I couldn't tell you exactly, impossible.

Q. I am not trying to tie you down to exact feet; it is all guess work. That is a clear discrepancy.

A. Might have been more than thirty seconds. I don't know. Just telling about how far apart I think we were at the time I got the second whistle.

Q. You think about 400 feet?

A. I think they were; may be not as much; maybe only 200 feet.

Q. Well, if they were 200 feet, it would take considerable more than 30 seconds to run that, wouldn't it?

A. I don't know how long it would take. I know the collision came shortly after the whistle.

Q. If it took  $2\frac{1}{2}$  minutes to go 600 feet, you couldn't run 200 feet or 400 feet in thirty seconds. How big are those stays?

A. I don't know.

Q. What is the usual size they have?

A. Well, those on the Kern are about 7-8 or one inch wire.

Q. You have worked on the old Henderson?

A. Yes, sir.

Q. How long did you work on her?

A. About two months I think, I am not positive.

Q. She had the usual size stays?

A. I don't know had any. I never saw any.

Q. Then this stay that you speak of that you think obstructed the green light, you think was on the oil barge?

A. Yes, sir.

Q. What kind of stays are those?

A. I suppose wire. I never paid much attention. I know wire, but I don't know how wide they are. I suppose probable one inch wire.

Q. You think a stay one inch wide, for a distance of a mile would obstruct a light?

A. For an instant, while shaking.

Q. Shut it out so you would observe it?

A. Kind of blink like an electric light switched off and on.

Q. You couldn't see the green light distinctly?

A. Quite plain.

Q. I thought the gangway doors were shining so bright you couldn't hardly make out that green light.

A. I never said that.

Q. Haven't you said the lights were shining very bright out of the gangway doors?

A. Yes, sir.

Q. Very bright?

A. Yes, sir.

Q. Haven't you said it tended to obscure the green light and make it dim?

A. I don't remember. I may have said it.

Q. What is the fact about it. Was the green light obscured by the gangway doors or not?

A. Not obscured but of course dimmed the green light. A green light will not shine as plain from the light of the white ones as a red light.

Q. And these bright lights coming out the gangway doors did obscure the green light?

A. No, didn't obscure but not as bright as though by itself.

Q. I didn't mean hide it, but didn't it obscure it?

A. Dimmed it to a certain extent but not so it couldn't be seen.

Q. And yet you would undertake to say, in that dim state, one of these one inch stays at a mile distant, would make it flash out?

A. I don't know. I just supposed that is what it was. I don't know. Couldn't say. Might have been something put in front of it for all I know.

Q. You say the current keeps setting you down all the time as you go around the bend?

A. Yes, sir, always does.

Q. Strikes over against Bugby Bluff?

A. Runs to the outside; if we steer a compass course here, we have to haul up at least a half a point before we get up to the ranges. That is the reason I always try to get well down to the trap before going across.

Q. Does the current going down the river hit Bugby Bluff?

A. Yes, sir.

Q. Does it have any tendency then to go straight down the river?

A. Well, goes down the main channel and part through Prairie Channel until you get down here, and after that all goes straight down; when you hit these sands the current all goes straight down.

Q. Any current setting off this Puget Island shore?

A. Yes, sir.

Q. Sets away from the shore?

A. Yes, sir.

Q. Sets away from the shore?

A. Yes, sir. There is a buoy right in here.

Q. How far off does it perceptibly sway?

A. The buoy here goes down the stream on ebb

tide.

Q. How close in to the shore of Puget Island do you have to go to get out of this sweep of current?

A. I don't know. I suppose one hundred and two hundred feet off shore, you are out of it.

Q. But outside of that you get in it?

A. Yes, sir. Another thing, off more this sucks you down. At Puget Island they get the current the side of it like that to shove them down.

Q. Current on which side?

A. Naturally on the starboard side of the scows and you head into Puget Island.

Q. Captain, you didn't back before the second signal, did you?

A. Well, I am not positive whether I was backing just before or at the time the second whistle blew. I wouldn't say positive about that, but just about the same time.

Q. You said on direct examination you were backing before the second whistle, but you may be mistaken about that?

A. Just about the same time, but I am not positive whether before or just after we answered the second whistle; right in that neighborhood; from the blast of the whistle, just a few seconds.

Q. Just a few seconds difference?

A. Either one way or the other a few seconds.

Q. How long did you back?

A. Backed a half or three-quarters of a minute.

Q. A-half or three-quarters of a minute?

A. Yes, sir.

Q. And what do you estimate your speed?

A. I don't know what she was going. In the neighborhood of six miles, I suppose.

Q. Is that past the land?

A. Yes.

Q. How much would this cargo on these three barges weigh?

A. About three thousand tons.

Q. Now backing one-half to three-quarters of a minute—were you backing full speed astern?

A. Yes, sir.

Q. Would backing full speed astern for three-quarters of a minute, with that much load and with that current have any effect at all on stopping her?

A. Not very much?

Q. Very little. Did you shut her off backing after three-quarters of a minute?

A. After the collision took place, I stopped her.

Q. Then you think this backing practically had no effect upon checking her momentum at all?

A. Very little.

Q. Captain, if you gave an order to back full speed astern just before the second whistle, what was your object in doing it?

A. Well, I thought it would throw her bow out and she might accidentally get away.

Q. What do you mean by "out"?

A. Towards Puget Island. And another way, I thought even if she didn't clear, it would bring it

around so the rock scow would get the blow instead of the Samson.

Q. Did this backing have a tendency to throw her bow around to starboard?

A. I don't know as she backed long enough to throw it around very much.

Q. You don't know whether it affected it or not?

A. I couldn't say positive. Oh, suppose it did to a certain extent, for she was already swinging to starboard.

Q. Why would you, after backing, accept his passing whistle?

A. Well, it was all I could do, to answer his whistle and try to get over.

Q. If you were backing full speed astern, and he blew you one whistle, was it your place to answer with one whistle?

A. Of course it was.

Q. Why wouldn't you blow the danger signal?

A. Had no time for danger signal is the reason I didn't blow.

Q. You mean you had time to jerk a rope once but not four times?

A. I had the crew to wake up and get them out of bed, and backing the boat up; too many things; no time, and the danger signal no good in that case.

Q. But you had no time to give one?

A. Had no time to give one.

Q. How much longer does it take to give a danger signal than it does a single blast?

A. It takes several seconds.

Q. What angle did you hit these barges at—the oil barge?

A. Hit which?

Q. At what angle did you hit the oil barge?

A. The oil barge?

Q. Yes.

A. Well, just dropped in alongside; alongside, almost head on.

Q. Just dropped in alongside almost head on.

A. The oil scow and rock scows were nearly parallel.

Q. And then you crushed into the steamer Henderson with your port rock barge?

A. Yes, sir.

Q. That immediately tore the Henderson loose?

A. Well, the other scow hit about the same time, the middle one.

Q. Did that have any effect of throwing the bow of the oil barge up stream?

A. Well, I don't know whether it would or not. It might. If it threw it anyway at all, it would throw it up stream, the tendency at least.

Q. Why do you think it might have had no effect at all?

A. Well, a big heavy weight there and she didn't hit the oil barge so very hard—hit the Henderson hardest.

Q. You have towed on the Henderson a good deal?

A. Not a great deal. I wasn't there very long.

Q. Well, you know how she lashes alongside ships?

A. Yes. I don't know as I have towed a ship with her.

Q. How far out does her stem set from the side of the vessel?

A. I don't know as they ever towed a vessel while I was on her. I couldn't say to that.

Q. Do you know how much beam she has got?

A. I have heard them say she was about, I think about thirty-seven or thirty-eight feet overall.

Q. How much beam has your port rock barge got?

A. I think 37 feet.

Q. 37 feet. Well, now Captain, assuming that the port rock barge—that is barge No. 9, isn't it?

A. Yes, sir.

Q. Assuming that barge No. 9 has a beam of 37 feet and that the Henderson has a beam of 31 feet, and has a guard of two feet, and is lashed alongside, right parallel with the oil barge, or a very trifling slanting in, do you think it would be possible for that port rock barge to hit the oil barge and then to receive a dent from the bow of the Henderson on the starboard side of Barge No. 9?

A. Yes, sir, I do.

Q. All right. I want you to explain that.

A. Oh, I have an idea that as soon as that rock scow struck the oil barge, that the headline parted and that would let her go out some, because the manila pendent line, always more or less stretch to that;

she come out enough so just come by the center of the port scow. This dent in the port scow was just by the middle of the bow—the center of the bow—to the starboard of the middle of the bow.

Q. How much to the starboard, about?

A. I don't think but about a foot if that much. I don't remember exactly, but I know very close to the center.

Q. Not over one or two feet.

A. Yes, sir.

Q. And how far would that be around from the stem of the bow?

A. That is what I mean. Right around from the center, that way.

Q. Did Barge No. 9 hit the tow line—the head line, I mean?

A. I don't know. I am not positive whether or not. It might have done it, because the rocks were up there high enough to hit it I think.

Q. How high do you pile the rocks on the barge?

A. I guess piled up all the way from ten to twelve feet, some times higher.

Q. What draft have these barges got when loaded?

A. About nine feet six.

Q. You think this barge No. 9 may have struck the head line?

A. The barge wouldn't hit the headline, but the rocks may.

Q. May have hit the head line or barge No. 9

may have struck the oil barge and parted the head line?

A. Yes, sir.

Q. Wouldn't the breast lines have held the stem of the Henderson in her position, notwithstanding the oil barge?

A. I don't know whether it would or not. Were backing the Henderson at the time. That would have a tendency to throw her bow out.

Q. The breast lines straight across are supposed to hold her steady.

A. Always more or less give to the line; bound to give some. We start out with our lines as tight as a bar; by the time we run a few hours, we have to tighten up again.

Q. Was there any indentation mark of any kind on the side of the oil barge indicating she was hit?

A. No indentation but the paint rubbed off.

Q. No indentation at all?

A. Not that I noticed.

Q. You saw her the next morning?

A. Yes, sir.

Q. Right alongside of her?

A. Yes, sir.

Q. Now, will you draw a diagram illustrating your idea of how these boats came together.

Mr. C. E. S. WOOD: We will offer the chart that Captain Jordan was using to explain his testimony as Exhibit 17.

Marked Libellant's Exhibit 17.

Mr. C. E. S. WOOD: Now, here are models you can take and use to draw around.

Q. Arrange them about the way they were. Were they fixed about as they are there?

A. Yes, about. (Using models to illustrate.) Of course when she hit she went off like that. I can't get that under there where it belongs, but a hole in there about seven feet where the scow was.

Q. I want the angle where they came together.

A. That is where they were first, and here is where parted.

Q. You think were struck that way first?

A. Yes, sir.

Q. That is practically dead head-on?

A. Yes, sir.

Mr. C. E. S. WOOD: Where did the port rock barge first touch the oil barge?

A. About as are now.

Q. And about how far ahead of the stem of the Henderson?

A. I thought about 25 or 30 feet. I couldn't tell where the Henderson was fast to her. I don't know.

Mr. C. E. S. WOOD: Have you it just right?

A. That is the way I think they struck first.

Mr. C. E. S. WOOD: Trace the outline. (outline traced.) Is that about right?

A. About right, yes.

Q. Now, Captain Jordan, as I understand you, Barge No. 9 slid down the port side of the oil barge until the stem of the Henderson and the bow of Barge

No. 9 came together?

A. Yes, sir.

Q. And indicate on the bow of Barge No. 9 about where you think this dent was made by the stem of the Henderson.

A. Well, assume this to be the middle. I think the dent was about there (indicating). A V-shape mark to the best of my remembrance.

Q. Now, Captain about how far to the right of the extreme stem of Barge No. 9 was that dent you spoke of?

A. I don't remember now how far it was. Only a short distance, probably between one and two feet. I don't remember exactly about that. I know only a short distance past the stem.

Q. Then you think the next result was that the stem of the Henderson was thrown to her own port?

A. Yes, sir. This line breaking and her backing; these lines leading off here and her backing would give some slack and let her bow come too much away from the oil barge.

Q. Do you know whether it parted instantly or not?

A. As soon as this scow hit her, she went instantly on off.

Q. What did your scow do?

A. The scow stayed right alongside.

Q. Which way veered?

A. Was pointing in towards Puget Island, and we let the anchors go as quick as we could and anchor-

ed right on the beach. This man on this scow went forward and when it hit—after we let our lines go he was adrift, but he didn't pay any attention to that; he went to see if the scow was leaking. Then he came back and anchored.

Mr. ERSKINE WOOD: I offer this in evidence, the diagram identified by Captain Jordan, diagram of the first impact.

Marked "Libellant's Exhibit 18."

Q. Now, Captain, will you take these models again, and illustrate your idea of how the Henderson was rammed on her port bow there, the position the boats were in then. (Witness does so.) Is that your idea of the position the boats were in then?

A. Yes, sir. Of course I can't get this one under where it belongs. She was swung out here, you see.

Q. Just take this away a minute.

A. I can't get that in there.

Q. Just put those in the position you think they were at the time the blow struck the port bow of the Henderson.

A. Like that. (Illustrating.)

Q. Fix them about the way you think.

A. About like that. (Illustrating.)

Mr. ERSKINE WOOD: Referring to the diagram showing contact of the middle rock barge with the Henderson, after the side of the Henderson was crushed in as claimed by Captain Jordan, we will offer the same in evidence.

Marked Libellant's Exhibit 19.

Q. Now, Captain, how was it possible for the middle barge to ram the port side of the Henderson when the Henderson had been thrown to port herself away from the point of impact?

A. Throw her right on to the middle scow by throwing her out.

Q. So the effect, as you think, was that the port barge striking the stem of the Henderson threw her into the middle barge. Is that it?

A. They struck about the same time. She hit the point here and the stem, all about the same time. All happened together. My opinion is when the port scow hit the oil barge, this head line broke from the Henderson and his backing on her, threw her bow out there, so she caught both scows practically the same time.

Q. How close together was the crushing of the port side of the Henderson and the first impact on her stem?

A. They all happened just instantly. Seemed as though it happened all about the same time. You couldn't see but very little difference.

Q. Then this second diagram of yours in which Barge No. 9 is marked at considerable more of an angle to Barge 93 than the first diagram, seems to present a difference which wouldn't take place practically instantaneously. How would that happen?

A. Because the Henderson swinging away from this scow, she hit here and the stem too. She got by them rocks. They were so close together, you could-

n't tell whether hit here or here first, but could see was hit almost the same time. Couldn't have been only half a second between the two impacts.

Q. The first thing that happened, that port bow of Barge No. 9 struck the oil barge 25-feet approximately ahead of the stem of the Henderson?

A. Something like that.

Q. That happened first?

A. Yes.

Q. And practically instantly it ran down upon the stem of the Henderson.

A. Yes, sir. That and the middle scow too.

Q. And when Barge No. 9 first touched the oil barge, she was, as near as you could tell, parallel with her?

A. About, yes, sir.

Q. And what caused her to assume this position that you have now indicated, at an angle?

A. I can't show you the swinging. By the position on the paper they are not moving, but here is this boat moving out, and the scow coming straight on. Almost impossible to show on the picture.

Q. What made barge No. 9 move?

A. She was still under way.

Q. What made her stern swing to her own starboard?

A. Barge No. 9?

Q. Yes.

A. I don't know how much she swung or anything about it. I know the Henderson would swing. Our

scows were swinging to starboard.

'Q. I don't care about the Henderson. I want to know what made the stern of Barge No. 9 swing considerable to the starboard?

A. Never swung to the starboard, sir.

Q. That is the way you put it.

A. I can put that out. I can't make the diagram move.

A. I am not talking about the Henderson. I mean Barge No. 9. First you say Barge No. 9 came, as near as you could tell, dead head on the Henderson.

A. Yes, sir.

'Q. And that put her parallel with the port side of the oil barge, just barely allowing a glancing blow.

A. Yes.

Q. Just scraping her side. Then she was parallel with the oil barge, wasn't she?

A. Yes, sir.

Q. And it was almost at the same instant she struck the stem of the Henderson, and the middle barge struck the bow of the Henderson. That is right, isn't it?

A. Yes, sir.

Q. Then how did she come at that quite considerable angle? How did Barge No. 9 get at this angle?

A. I will put these and show you better. I drew this to show how this hole here happened. I supposed that was all you wanted.

Q. Never mind the diagram. We have what you mean.

A. No, you haven't if that is what you meant. You asked how the hole was made. I didn't pay any attention to that in relation to these two, but I can draw and show you how would lay parallel to the oil barge and still make the hole in it.

Q. You can?

A. Yes, sir. I thought all you wanted was to show the hole.

Questions by C. E. S. WOOD:

Just draw it: the flotilla of rock barges comes down the stream and hits the oil barge at the point here. you said before they hit on a parallel line. Now you have them pointing in.

A. I said they were nearly parallel as near as I could tell. Of course it was dark, I couldn't tell.

Q. Just a little glancing blow, the blow on the oil barge, like that?

A. Yes, sir.

Q. Haven't touched the Henderson yet. The middle barge would have to touch first.

A. She may have touched first; couldn't hardly tell one from another.

Q. What I mean while the middle rock barge has her nose right in the port bow of the Henderson, the port rock barge isn't anywhere near the stem of the Henderson.

A. So close the impact would be almost instantly. That thing would slide down in a second.

Q. The port barge isn't anywhere near the Henderson's stem.

A. Couldn't be very far, only fifty feet back from her.

Q. Which barge hit first and knocked the line loose?

A. Almost instantly; I couldn't tell, so close together.

Q. It must have been either the port barge or the middle barge hit first.

A. Probably the middle barge did touch first.

Q. Then the point I mean is this. If it was the middle barge that came down and hit the Henderson first, it would crush her in, break her away and the port barge would never get near her stem.

A. Yes it would because she is hitting here too.

Q. The Henderson broke away instantly didn't she?

A. Why the whole business went all at once. Yes, sir, she was backing.

Q. Then how is the middle barge going to crush her side, break her away, without pushing her so far ahead the port stone barge will never touch her stem?

A. Because the Henderson would not get away as fast as the Samson came down; bound to hit.

Q. Suppose the middle barge hits first. How is that going to knock her stem out to port? If the middle barge hit first, how is the Henderson's bow going to be thrown to port?

A. Because these lines broke and she is backing. She is backing this way, and as this scow comes down

it is bound to hit her.

Q. The Henderson is backing with her lines still fast, or loose?

A. Probably loose by this time, and when hit would break these lines. The head line broke first.

Q. She breaks the lines and is loose and backing and—

A. These lines would naturally hold her some, the tow line and stern line.

Q. Would hold her some?

A. Yes.

Q. And she has got sufficient power to swing away from the oil barge and throw herself into the path of the middle barge. Is that the idea?

A. No, sir. This one here, the port scow, she backs down. We are going too; she hits there, goes on around and goes by there in that shape. That is the way the Henderson backed around. (Illustrating with models.)

Q. Well, I confess it looks impossible to me, but I wish you would make a diagram now to suit yourself the way you think this could have happened with the middle barge doing the damage.

COURT: I think you better get to something else.  
Questions by Mr. ERSKINE WOOD:

Captain how long was it after the collision that you anchored your stone barges?

A. Just as quick as we could get at it. Probably six or seven minutes.

Q. What kind of anchors do you have on them—

have patent anchors, new anchors?

A. I think they had old style anchors. In fact, I know they did at that time.

Q. But did your three stone barges stay alongside the Samson, lashed to her until you anchored them?

A. No, we anchored two and the other was torn loose and it went down and they anchored it afterwards, down the river.

Q. How long did the ones not torn loose stay with you?

A. Until we took the lines off.

Q. How long was that after the collision?

A. Well, we was alongside the scows probably fifteen minutes before we got all the lines off the scows.

Q. Were you maneuvering them around at all?

A. No, sir.

Q. What were you doing?

A. We was getting the life boat out, some of us, and others were getting the lines free from the scows.

Q. Which way did your scows and the Samson head after the collision?

A. Straight into Puget Island.

Q. How much momentum did they have them?

A. Not very much, I don't think.

Q. Well, how fast do you think they were going?

A. I have no idea how fast going.

Q. Had their momentum been checked?

A. Yes, checked to a certain extent. I backed on

her and hit this boat.

Q. Had the backing had much effect?

A. And the scows were swung around; was up against the current.

Q. I asked if the backing had much effect?

A. Very little.

Q. Then we can leave that out of consideration; had no effect.

A. Yes, sir.

Q. So the only thing that checked her would be the impact of the collision?

A. No, sir; swung around, was going against the current.

Q. Going upstream?

A. Yes, abreast of Puget Island.

Q. What effect would the current have in checking her?

A. Quite a lot; the anchors also checked it.

Q. Did you throw a line on the Henderson that night?

A. Some of the men did.

Q. I mean the Samson did?

A. Yes, sir.

Q. Under whose direction?

A. I don't remember whether I told them or whether Captain Church did.

Q. Who was in command after the collision?

A. I was still on watch. Captain Church was around there though.

Q. Were you still at the wheel?

A. Yes, sir.

Q. How long did you stay at the wheel after the collision?

A. Until after breakfast the next morning.

Q. And you say that you towed the Henderson over toward Tenas Illihee shore?

A. Yes, sir.

Q. How far did you pull her?

A. She was drifting when we got hold of her. I don't know; probably a thousand feet altogether.

Q. How did you pull her? Tell me that.

A. Put a line on her and backed up on her. A line from the bow of the Samson to her kevel and backed on her.

Q. To what kevel?

A. I don't know whether the house kevel or the one just forward. I have forgotten which one it was.

Q. You pulled on her there quite a while?

A. No, not very long. We was probably alongside of her—well it was ten or fifteen minutes probably from the time we come up to her until she careened.

Q. After you first put your line on, did you take it off at all?

A. There was one broke and we put on another one.

Q. And continued to pull on her with the second new line?

A. No, we let her drift quite a ways before we done any pulling. Drift some, and backed some on

her.

Q. What I mean, did you do all your pulling on her with the first line or that second line?

A. As to that I couldn't say, I don't remember.

Q. You don't know whether you did any pulling on her with the second line or not?

A. No, I am not positive. We worked ahead on the second line to hold her on the beach after she struck.

Q. Which way were you backing with her, Captain?

A. Down stream.

Q. Straight down stream?

A. Well she—it is pretty hard to tell which way would back; boat naturally backs to port; pull her out some, but the current would set her in towards Tenas Illihee Island.

Q. Does the current set in abreast that point with much force?

A. Yes, pretty strong.

Q. The current does not go straight down the river then—down the ranges?

A. It does there, yes.

Q. What was tending to pull her over to Tenas Illihee Island?

A. Because we was further up whefe the current sets in towards Tenas Illihee; the collision took place above it, and she was pretty well over there when we got hold of her.

Q. Did you ever get down on the ranges that

night at all?

A. No, sir.

Q. I mean before the collision, of course.

A. No, sir. That is what I have reference to, before the collision.

Q. How near to them did you get?

A. I don't think I was closer than two hundred feet.

Q. How deep is the water where you anchored those stone barges?

A. I don't know how much there; suppose about three fathoms.

Q. How much water where you anchored the lower one?

A. Couldn't have been but very little for we kicked up the mud with the propellor when we went to get it.

Q. How much do you think there was there?

A. Probably sixteen feet.

Q. What time did you pass Eureka cannery?

A. I come on watch about Eureka, about ten minutes after twelve o'clock in the night.

Q. What time did you reach Bugby?

A. It would be one-thirty, I suppose.

Q. How far is that?

A. I don't know how many miles it is.

Q. How far do you think it is, Captain? You run up and down the river all the time. You must know those distances.

A. I don't know, I am sure. I never paid much at-

tention to the number of miles. I know where the places are and about how long it takes to go between them, but I never paid any attention to the number of miles.

Q. As a pilot aren't you supposed to know the distances between the principal points on the river?

A. No, sir, not necessarily.

Q. If the oil barge and the Henderson left Astoria at 8:45 on a flood tide, how much effect would that flood tide have in increasing their speed up the river?

A. That would be quite a lot of help. If had the flood tide leaving would be a big help.

Q. If had an hour's flood tide coming up with them, how much would that help them?

A. Would soon run out of it; wouldn't last very long.

Q. Wouldn't it last over an hour?

A. No, after you got to Altoona would have no flood tide at that stage of the water.

Q. If they left Astoria one hour before high tide, they would have a little over one hour going up the river, wouldn't they?

A. I don't think so. No flood tide above Altoona at that time of the year; they have freshets at that time.

Q. How far is Altoona up the river?

A. About twelve miles above Astoria.

Q. Is it spring freshet that year?

A. Not as high as some. I forgot the height of the

water.

Q. Compared to average freshets was it high or low?

A. About an average.

Q. It has been testified was a low freshet that year. You don't agree with that then?

A. I think about the same as has been the last two years. Hasn't been very big freshets the last four or five years. About average the last four or five years I think.

Q. You say these rock barges tow pretty hard, Captain.

A. Yes, when you have three of them.

Q. Make a pretty hard tow to pull through the water?

A. Yes.

Q. Pretty hard to stop them?

A. Yes, unless you have the conditions right and expect to stop; then of course you can make better at stopping them.

Q. Of course if hard to tow, then naturally hard to stop. That is right, isn't it?

A. I don't understand.

Q. I say if they are hard to pull through the water, naturally must be hard to stop.

A. Not always.

Q. Why not? I would like to understand that.

A. Well, if conditions are right, you will naturally stop. Some will stop quicker than others. A model boat will carry headway further than a square nose

scow.

Q. I am talking about rock barges. You know I am talking about them. You said they tow hard. Now, I ask if easy to stop or hard to stop.

A. Well, on ebb tide was hard to stop, going down stream, of course.

Q. All right. Then what I want to know: You say you think the oil barge would go a-quarter-of-a-mile after that collision without any power of her own.

A. Yes, sir, the way she was going at that time.

Q. And up that strong current?

A. She wasn't going against the current; was drifting then because was headed down towards Prairie Channel. I testified she had port helm on her.

Q. Do you believe that the collision took place above or below the point where the oil barge came to anchor?

A. Just below, across.

Q. Just below that point?

A. It was floated down the river.

Q. A line drawn straight across the river from the point where the oil barge lay at anchor would strike Puget Island above the point of collision. Is that right?

A. I can show better on there than I can explain it to you.

Q. I think you ought to be able to tell me that.

A. From where the collision took place would be about southeast across there. The current of course

is down, but she wouldn't have to travel up against the current very far; was off more across the current.

'Q. You mean southeast or southwest?

A. Southwest, would be more across the current than against the current.

Q. Well, if the collision took place southwest of where the oil barge lay, she would have to go quartering against the current to get over there, wouldn't she?

A. Yes, sir, that is the idea.

Q. She would have to go against the current?

A. Yes, sir.

Q. Did you go on the port scow after the collision?

A. Yes, sir, saw her the next morning.

Q. What damage did you see on her?

A. There was nothing only that little dent in the bow that I remember of now.

Q. Weren't her ribs cracked on the port side of the bow?

A. I don't remember. They may have been. I couldn't say positive. I don't remember that.

Q. If I read you some testimony that you gave before the inspectors in which you said they were, you would believe it was true, wouldn't you?

A. Yes, sir, I would.

'Q. You answered Mr. Minor that the Hunting Island Range was closer to Puget Island than it was to the Oregon shore.

A. Sir?

Q. You answered Mr. Minor that the Hunting Island Range was closer to Puget Island than it was to the Oregon shore, and I just want to know at what point of the river you say it was closer.

A. Why, at the situation where they are situated on the island. They are situated on the Washington side and are certainly closer to Puget Island than the Oregon shore.

Q. I am talking about the range, not the range lights. As the range runs, you said it was closer to Puget Island than to the Oregon shore.

A. I mean would take you closer to Puget Island than it would to Tenas Illihee.

Q. Up further, about abreast of Hunt's Mill point, how does it run?

A. Will fetch you in to the Oregon shore if you stay on it.

Q. I am talking about abreast of Hunt's Mill point.

A. I don't get what you mean, I think.

Mr. MINOR: Show him the chart.

Q. No, I don't want to show him the chart. From Hunt's Mill point straight across to Puget Island, the shortest line you can draw from Hunt's Mill point to Puget Island.

A. That would be the shortest line across that way, or about the same there. It wouldn't be but very little difference. (illustrating.)

Q. Well, on that line is the range closer to Hunt's Mill point or the Puget Island?

A. I think it would be midway there. I am not positive about that. I don't remember just exactly where it comes in but I think it would be about half way across.

'Q. You think the reason that the Henderson came over on the shoal water of Tenas Illihee Island was that you pulled her over there. Is that the idea, Captain?

A. Not altogether. She was drifting pretty well down there before we got hold of her.

Q. She drifted down before you got hold of her?

A. Pretty well down. She wasn't to the point but had drifted over quite a ways from the point of collision.

Q. Well, then, how far was she from the point where she ultimately came to rest, when you took hold of her? In other words, how far did you pull her?

A. We had hold of her altogether for about a thousand feet, I should judge.

Q. I mean, how much did you pull her?

A. I don't know just how much we worked her while we had hold of her. I couldn't tell because I don't remember how long we backed on her.

Q. Do you think your pulling got her where she was or do you think she drifted there?

A. She would have drifted there herself without any pulling.

Q. But you pulled on her yourself pretty hard?

A. Not very hard because we backed her, and we couldn't back her on that line.

Q. I will read this testimony, which is on page 414. This appears to be a portion of your testimony given before the United States Inspectors at your trial following the collision: "Q. After this accident, Captain, what did you do? A. Well, the first thing, I hollaed out and wanted to know if they needed any help, and they said they didn't know or they didn't think so, I wasn't positive which; but I turned the searchlight on them and I could see there was a big hole in the side of her and she was sinking; so I told the boys to get a life boat over and to anchor their scows. Of course, there was quite a crew there; there was sixteen or eighteen men around there; and so part of them attended to the scows and the mate and several sailors got the life boat over and pulled up to the wreck, and while they was going up there there was a fish boat came alongside her, two fish boats, I think. I told them to go up there to the wreck and see if they could not help some of those passengers off; and after the boat was away we got our tow lines off and neither line was off the barges, and backed away from them and went up to the Henderson and she had rolled over to the starboard then. We put a line on the cavit; I think Captain Stinson of the Henderson took our headlines and put it on, and he talked about us pulling her inshore, and, with his aid, we put that big tow line of ours on, but if she went down on her side we would never get it off; we would have to lose it, or chop it off or something. We held on there that way with our head line while we were talking

about it, and before they made any other preparations about the line the Henderson fetched up on her bottom very close to the Tenas Illihee Island and rolled on over. We still had our boat alongside there, and there was a couple of other boats. I saw she was coming and hollaed to the boys to get away from there with their boats, they were liable to get sunk. In fact, there was a piece of the guard iron sticking up that caught a fish boat there alongside of her. And about the time she straightened up our headline parted, and at that I swung off. So after she turned over on her port side, we got alongside of her again, lay right across the stem of her, across the bow. I had her working ahead very slow. We waited around there then until daylight, four o'clock I suppose; somewhere around there; and we had some of the crew of the Henderson aboard, and Pilot Sullivan I think. Then we went back up to the oil tank. She was anchored up below Bugby Hole under the bluff. We went up there and put them off, and we went back down and picked up our scows that were anchored and made up the tow and went on down to Fort Stevens." Did you so testify?

A. I don't think I testified Captain Sullivan was aboard. I don't remember seeing him. I saw Captain Anderson.

Q. Except for that you testified as I have read to you?

Q. There is nothing in that testimony indicating you pulled on her, is there?

A. No, sir.

Mr. ERSKINE WOOD: Mr. Minor, I am going to read some of his testimony for the purpose of impeaching, and before doing so, Mr. Snow would like to ask a few questions.

Mr. MINOR: No objection at all.

Questions by Mr. SNOW:

Captain Jordan, where were you—where was the Samson in the river that night when you came on watch?

A. About Eureka.

Q. Eureka Cannery?

A. Yes, sir.

Q. How far above the waters of the Columbia where this accident happened is Eureka Cannery?

A. You mean how far is the cannery from the place of this accident?

Q. Yes.

A. I don't know just how far it is. I never heard any one say and never saw it marked down.

Q. You came on watch on the Samson about 12:10 or 12:20?

A. About 12:10.

Q. This accident happened about 1:40, 1:30 or 1:45?

A. Somewhere around 1:40 I believe.

Q. Then you had been on watch approximately an hour and twenty minutes before this accident?

A. Yes, sir.

Q. Now, I want to ask you, Captain, what you mean by saying that the barges were hard to handle, or steered hard?

A. Well, it is a big heavy tow. You have to be careful with it to go up and down the river without accidents.

Q. Well, you mean the barges are hard to steer, heavily loaded.

A. As a general rule they steer first rate.

Q. What do you mean then? Were the barges hard to steer? You mean that the barges are hard to steer?

A. That is you can't swing them around in a short distance. You can steer them steady but turn them around and handle them quick, it is impossible to do it.

Q. When you came down the river that night, did you go on the inside of Coffee Island or on the outside?

A. On the outside.

Q. Your ordinary course down the river when you leave the Westport light—Westport light is above this?

A. Yes, sir.

Q. And after you leave Westport light, for what point do you ordinarily steer?

A. There is a trap down below Westport Light, I run down for. When that not there, I have it marked and run so long on this course, and get to a certain point and swing.

Q. About what place?

A. This turning place. I run down that to Coffee Island, then head for that light.

Q. For the light?

A. Just outside.

Q. And you can see the Bugby Hole light from the neighborhood of the Coffee Island light?

A. I can see Bugby Hole light a little above Coffee Island light—runs up.

Q. You steer approximately for the Bugby Hole light, a little outside of it?

A. Yes, sir.

Q. And when you come up opposite Bugby Hole light, you then mark a course down the river until you strike the range light.

A. Yes, sir, head for Skamokowa light.

Q. On this occasion, you say you met a fish boat that showed you a red light up opposite Bugby Hole light?

A. Yes, sir.

Q. And for that reason you got off from your usual course and got into Puget Island—nearer Puget Island?

A. Yes, sir.

Q. And if I understand you, you passed this fishing boat at the point marked "C" on Libellant's Exhibit 17? Is that correct?

A. Yes, sir.

Q. And you steered a course from the point "B" on Libellant's Exhibit 17, down the channel of the

river, as you have indicated on this map?

A. Yes, sir, about that approximately.

Q. Point "B" was the point where you first saw the Henderson was it?

A. About there. I think a little higher up, for I had just got around the point so I could see down the river.

Q. Well, is the point "B" correct?

A. Very near it.

Q. By "a little higher up," how much higher up do you mean?

A. Right close here. I could just see around the point.

Q. Point "B" is not the point where you first sighted the Henderson.

A. Very near it.

Q. Now, at Point "D" you got your first whistle from the Henderson, did you?

A. I should get it about there.

Q. Well, that it what your testimony is. Is that correct?

A. Yes, sir.

Q. At that time, you say that the Henderson was approximately half-a-mile off?

A. Something like that, I think.

Q. Now, you could then see both the red and green light of the Henderson?

A. Well, I saw the green light on the oil barge and the red light on the Henderson.

Q. Well, you saw the green light of the Henderson

and the oil barge coming up the river?

A. Yes, sir.

Q. And they were at what point on this chart when you first saw them?

A. Well, I think they were down about here somewhere.

Q. Down at point "G"?

A. Yes, sir.

Q. Now, when you first saw them from point "B", at point G, you say that the Henderson was off the range lights?

A. I think so—was the way it looked.

Q. How can you tell from the point "B", unless you yourself were on the range—how could you tell that the Henderson and her tow were off the range?

A. Because I could see the ranges were open on the upper side, and still seemed to be above where I was. I couldn't tell exactly.

Q. But you are not certain but she may, at that time, have been on the ranges. Is that correct?

A. May have been on them, but that is the way it looked to me. That is what they asked.

Q. The point "D" you got your first whistle?

A. Yes, sir.

Q. Indicating that your vessel should go to the starboard and that the Henderson and her oil barge were supposed to go to starboard?

A. Yes, sir.

Q. Now, at that time, where was the Henderson?

A. When we got the whistle she was further up.

She was here someplace. I don't know exactly where.

Q. I want you to state as near as you can where she was when you got the first whistle—as near as you can.

A. Here somewhere. (Indicating)

Q. That is correct?

A. As near as I could judge.

Q. That is the point approximately?

A. I thought above the range.

Q. How far above the range?

A. About where that mark is.

Q. Then when she gave you your whistle she was at "H" and you were at "D"?

A. About that, yes, sir.

Q. Now, at the time she gave you the whistle, you were coming down the river on a port helm, were you?

A. Yes, sir.

Q. How much of a port helm did you have on at that time, do you know?

A. At the time we got the first whistle, she was over about—nearly two points on the dial.

Q. How long had she been traveling with that helm?

A. A very short time.

Q. Had she been—

A. (interrupting) Well, she wasn't over that far when we got the first whistle. I put her over after I got the first whistle, I should say. She had some going down.

Q. She had a little port helm, from the time you

first sighted her at "D", and at "D" you put her over two points?

A. About two points, if I remember correctly.

Q. And you sailed down under that two-point compass?

A. Yes, sir.

Q. Until you reached the point "E"?

A. Yes, sir.

Q. At the point "D" you were approximately 400 feet off from shore. Is that correct?

A. I suppose so, something like that. That is hard to tell. I couldn't say positive one way or another. Might have been 800; I couldn't tell, because it was dark in there and I couldn't say.

Q. This map, I show you, drawn to scale, 1000 feet to the inch. Now, if you were not 400 feet off from the Puget Island shore, and were 800 feet off—I want to know what the fact is. (Showing Libellant's Exhibit 17.)

A. Let me have a rule.

Mr. ERSKINE WOOD: That is not exactly a thousand feet to the inch.

A. It is 2000 feet across there. I was off there, according to this scale about three-quarters of an inch. That would be about 500 feet.

Q. Now, then were you 500 feet—

A. (Interrupting) More than 500 feet—700 feet.

Q. Were you 500 feet or 700 feet?

A. About 750 feet.

Q. Locate that point for me, will you?

A. Right here. (Indicating).

Q. This is your point?

A. This would be the distance out I say from shore, along here instead of that line I drew. That line I just guessed at.

Q. Now, then this is the point you think you were at then. The second location of your point "D" is this point where I put my pencil. Is that correct?

A. Where I got his first whistle?

Q. Yes.

A. Yes, sir.

Q. This first "D" you located is not correct. Is that right?

A. A little too close to the beach. That is the only difference.

Q. I will put a circle around that and mark that point D'. (D prime). I mark that "first corrected position of Samson when first whistle was sounded." Is that right?

A. Yes, sir.

Q. Then the first course that you drew down the river between the point "B" and the point of collision, opposite the Grove Slough—it is marked Grove Slough on this map, is not correct, is it?

A. The only way it is incorrect is the distance it is from the shore.

Q. Then you traveled down from the point D' approximately say 700 or 800 feet from shore?

A. Yes, sir.

Q. Until you got the second whistle?

A. Yes, sir.

Q. Where were you when you got the second whistle then?

A. Right here (indicating.)

Q. The second whistle was here, was it?

A. Yes, sir. Out a little further according to the same line.

Q. Out here, was it?

A. Yes, sir.

Q. Now, I want to be accurate about this for I want to be fair to you, and I want you to be fair to us. At that point then is where you got your second whistle?

A. Yes, sir, as near as I can get it.

Q. Now mark that point "I" as the "point where Jordan was when second whistle was sounded." What did you in your direct examination or in your cross examination in answer to Mr. Wood, make as point "E"?

A. Where is point "E"?

Q. Here is Point "E" where my pencil is here on Libellant's Exhibit 17.

COURT: Second whistle, wasn't it?

A. That is what he said.

Q. You said that at the second whistle that you received from the Henderson, you were at the point "E." Now, you say that the point at which you received the second whistle was the point "I".

A. Then this was the collision. I thought this was the whistling point. This is the whistling point and

this is the collision here. (Indicating.)

Q. This the collision here?

A. No, he asked where I backed. I don't remember those points now. That is where the second whistle was, here.

Q. Then your second whistle was not at the point "I"?

A. I don't remember what he has this marked for here, but I know one or the other.

Q. You know where you were. I don't know, but you do. What is the point "I" and what is the point "E"? What is the point "E" first. I want you to tell where you were when this second whistle sounded.

A. This is 400 feet from the point of the collision? That is where the whistle is? I can't tell.

Q. I don't know whether 400 feet or a thousand feet.

A. This is where the collision happened, right here, and 400 feet from that is where the whistle was blown. That would be about here. That must have been the whistle, for 400 feet is where the collision happened. (Indicating)

Q. The point "I" is where the second whistle sounded?

A. Yes, sir.

Q. This point "E" is not the point where you received the second whistle. Is that correct?

A. It was 400 feet off. Here it where I marked the collision here. 400 feet from that is where the second whistle was blown, wherever that be; would

be about here. I couldn't say exactly.

Q. You said on cross examination in answer to Mr. Wood that you received the second whistle at the point "E".

Mr. MINOR: I don't think so.

Q. That is easily solved.

COURT: It may have been that he put the helm hard aport at the point "E".

Q. The point "I" is the point where the second whistle sounded?

A. 400 feet from where I marked the collision. This is the collision. If that is 400 feet that is where the second whistle was.

Q. Where is the point "E". (Indicating.)

A. I couldn't say. I might have marked that; said about the distance travelled. Might be 400 feet.

Q. You tell where you were. I don't care. You are on the witness stand. I want you to tell where you were when that second whistle sounded.

A. Here is where the collision took place.

Q. Point "A".

A. Point "A". 400 feet from that is where the second whistle was blown.

Q. You mark it yourself. I am not a witness; you are.

A. We will call it that.

Q. Point "I" is where you received your second whistle?

A. Yes, sir, if that is 400 feet.

Q. Now, from the time you received your first

whistle at D' down to the point you received the second whistle, you had travelled on a port helm, two points over. Is that correct?

A. About that, yes.

Q. Did you change your helm at any time between the time of the first whistle and the time of the second?

A. Yes, sir, I gave a little more port helm.

Q. When did you give her more port helm?

A. We was down probably half way, and I gave more port helm, probably here.

Q. Why?

A. Because I couldn't see they was sheering off any and I could see I wasn't getting closer to the beach, was going sideways. So I said port.

Q. There is where you ported the helm, two points over?

A. More than that. She was two points going here and I gave her a little more.

Q. How much more did you give her then?

A. Well, probably half way over then.

Q. Half way over?

A. Or a little better. ,

Q. Before tracing your course down the river over the new corrected course that you have made, at point "E" you gave her more than two points on the helm?

A. Yes, sir, she was over half way over then.

Q. What did you mean by answering Mr. Minor that before the second whistle sounded, you were

Backing the Samson?

A. Well, I am not sure whether I backed before or about the same time. Either before or right after, right close together. I don't remember whether I answered the whistle first or rang the bell first. I couldn't say positive as to that.

Q. On direct examination in answer to your counsel, Mr. Minor, you testified as follows: "Did you hear the anchor chains go out?"—speaking now of anchor chains of Barge 93. "A. Yes, sir. Q. Had she passed you at the time you heard the anchor chains go out? A. Yes, sir. Q. About how far had she passed you at that time? A. She was quite a ways by at that time. Q. You think it was three minutes from that time? A. Yes, I should judge it was all of three minutes. Q. How long did you back on that course? A. Well, I backed between half and three-quarters of a minute, I should think. Q. Was that before the collision? A. Just before the collision, yes. I stopped just as soon as the Henderson was loose, I stopped backing." Now, did you back before the second whistle was blown?

A. I am not positive whether I backed just before or just afterwards.

Q. What is your best impression now as to whether you backed before the second whistle was blown?

A. Well, I wouldn't like to say because I am not positive about it. I don't know whether I backed just before or just after. It was one or the other. It would be so close, it wouldn't make but a few seconds

difference.

Q. If you backed just before you got the second whistle, it was because you apprehended a collision? Is that right?

A. Yes, sir.

Q. At that time, the vessel was coming head-on towards you?

A. Yes, sir.

Q. She was in the neighborhood of where you say the accident happened, way off the range, close to Puget Island shore?

A. Yes, sir.

Q. She was coming head on to you; you could see both lights, both the red and green, and she could see your red and green light, couldn't she?

A. I don't know whether she could or not. Don't think she could see my green light.

Q. And if she was in the position you say she was, and you were in the position you say, she could see both your lights?

A. I don't think so.

Q. You could see both lights?

A. Yes, sir.

Q. She was coming head on towards you then, and you were going head on towards her. Is that correct?

A. Yes, sir. She might have been able to see the green; I couldn't say positive as to that. Might and might not.

Q. When did you first apprehend a collision was

likely to take place between your two vessels?

A. Well, I thought we would get clear all the time until after the second whistle was blown.

Q. Until after the second whistle?

A. Until about the time the second whistle was blown, then I thought it would be almost impossible to clear her.

Q. Then you didn't apprehend a collision between yourself and the Henderson at the time the second whistle was blown?

A. Just about that time, I begun to think we were getting pretty close—wasn't much chance to get away.

Q. That was only about thirty seconds before the collision?

A. Only a little while.

Q. Approximately thirty seconds?

A. Something like that.

Q. And in thirty seconds time, directly after the second whistle, you made up your mind there was going to be a collision, sure?

A. Yes, sir.

Q. Then what did you do—put your helm hard aport or hard astarboard, or what?

A. Hard aport.

Q. Up to that time had you changed your helm from the time you left point D, D' or E—had you changed the helm?

A. Was giving more helm all the time after I answered the second whistle. I asked if hard over, and he said yes. I put my hand on the dial and found she

was hard over.

Q. Did you give another order after you gave the whistle, to hard aport his helm?

A. I told him to hard aport two or three times.

Q. When did you start to give that first order to hard over port?

A. Just before the second whistle was blown, I think.

Q. Why did you give him that order?

A. Because I could see she wasn't changing her course any, and seemed to be coming to us all the time.

Q. You apprehended a collision then?

A. Yes, sir.

Q. Then you thought there would be a collision before you got the second whistle?

A. Just about the time I got the second whistle.

Q. Why didn't you give the danger signal then, instead of answering his second whistle, when you apprehended there was likely to be a collision take place? Why didn't you give the danger signal?

A. I thought answering him he would know—he understood what I wanted, and in the next place I had no time for a danger signal and would have done no good there, and I had the crew to think of. That was the reason I blew no danger signal.

Q. This is before you gave the second whistle and when you ordered the helm hard aport, why didn't you blow the danger whistle?

A. As I explained I thought he would understand.

I knew what the signals meant.

Q. That is before he gave you any signal. You had your helm hard aport before he gave you the second signal.

A. About the time the second whistle was blown, I began to think of danger. He whistled about that time and I answered.

Q. You had seen that vessel coming head-on way down the river, and she was off the range lights, coming head-on to you and you head-on to him. Why didn't you blow the danger signal?

A. I thought he would certainly pull off and give room. Didn't think of danger until just as he blew the second whistle.

Q. Within what distance can you pull apart that way? What distance can you, taking Barge 93 loaded with oil as she was and your three heavily loaded stone barges—what distance must you have in order to give one signal and operate so as to pass with safety?

A. If coming head-on two vessels are 800 feet apart, they ought to clear.

Q. That is the way these vessels were coming that night?

A. Yes, sir.

Q. And within 800 feet they ought to clear?

A. Yes, sir.

Q. Then according to your theory, that night Sullivan wasn't on any port helm and wasn't giving any attention to his vessel. Is that correct?

A. I never thought of any theory about him. I thought maybe his quartermaster might have made a mistake. He is a Norwegian and when they tell them to port in Norway, they put her helm to port instead of starboard, as we do.

Q. You think probably the quartermaster of Barge 93 may have turned his helm to starboard instead of port?

A. He might have for all I know.

Q. I want your theory. Here is an accident happens on this river thoroughly inexcusable from my point of view. I want to know what your theory is.

A. I just told you that as far as I could see. She didn't come down as she ought to, is all I know. I don't know what he done or anything about it. All I know is what I done.

Q. How could you tell that the Henderson was not on the range lights when the second whistle was blown?

A. I knew I was above them, and he was coming head on so he must have been above them, for I could see between the range lights.

Q. Then your conclusion is that because you were above the range and he was coming head-on, he must have been above the ranges?

A. Yes, sir.

Q. You don't tell from any sight of the range lights?

A. I could see the range lights below him.

Q. Can you tell whether a man is coming up on

the range or not unless you are on the range?

A. Can come very near when you get that close.

Q. Now, you locate the accident, Captain Jordan, do you, at a point pretty near opposite Grove's Slough?

A. Just below there—just a little bit above. The accident was right here.

Q. Point "A." (Exhibit 17.)

A. Yes, sir.

Q. Now, where did you find the oil barge the next morning?

A. The oil barge was anchored under the bluff over here. It don't show; over here somewhere.

Q. You know where Hunt's Mill point is, don't you?

A. Yes, sir.

Q. That is Hunt's Mill point, shown on this chart. Now, locate where the barge was the next morning.

A. There is an old trap in here that don't show here.

Q. The old trap is just below Hunt's Mill point, is it?

A. She was anchored right off here. If this is the old trap here, she was anchored just about here.

Q. I mark as point "J" the "point where Jordan saw the barge anchored the next morning." On libellant's Exhibit 17. Now, that is, approximately on the scale of this map, 2000 feet from the point of the collision and pretty near straight across from the point of the collision?

A. Yes, sir.

Q. Now how did Barge 93 which broke loose from the Henderson over on point "A" get over to where she was anchored the next morning?

A. She had some way on certainly, and they claim she had a hard aport helm.

Q. I want you to tell how she got over from your own standpoint; she came up head-on here; she had no port helm on according to your statement.

A. They told me she did.

Q. You say she had no port helm on her. Did she have port helm?

A. I don't know. I couldn't tell.

Q. She was coming head-on and couldn't have had port helm.

A. I don't know.

Q. If she was coming head-on and you saw both lights, she couldn't have a port helm, could she?

A. I couldn't tell. I don't know.

Q. If Barge 93 was coming head-on to you at a point near Grove Slough as you have described as the place of collision and the collision took place there, and at the time of the collision you could see both red and green lights of the Henderson and barge, how did Barge 93 cut loose from the Henderson and get over to Hunt's Mill point?

A. Would certainly drift over there if had any way at all.

Q. That is your theory?

A. Yes, sir.

Q. Drift right straight across the river to Hunt's Mill point?

A. Not only that, I was headed over to that beach and he was head-on; that certainly runs to that beach.

Q. Your theory is she drifted that 2000 feet after she broke loose from the Steamer Henderson over to that point?

A. Yes, sir.

Q. Then your theory is that this collision took place over on the Washington side of the river?

A. Yes, sir. Of course this distance I am only guessing at; only approximate.

Q. Now what time, as you understand it, would it take the barge to drift that distance over there—Barge 93?

A. She would probably go there in three or four minutes. I don't know just how long it would take, I am sure. She must have gone over in that time for that is just about the time after the collision until I heard the anchor chains go out.

Q. How long after the collision did you hear the anchor chains go out?

A. I think three minutes. I don't know.

Q. What makes you think so?

A. Just judging from the time of the collision until I heard the chains.

Q. Might it not have been ten minutes?

A. I don't think it was that long.

Q. Was it not seven minutes then?

A. I don't think so.

Q. Was it not five minutes?

A. I don't hardly think it.

Q. Was it not four minutes?

A. Might have been. I thought about three; that was just my notion of it.

Q. Could it have been two minutes?

A. Possibly but I don't think it. I thought it was nearer three.

Q. Now the vessel was coming up against an ebb tide?

A. Yes, sir.

Q. Coming up against the current?

A. Yes, sir.

Q. And in three minutes you say she drifted two thousand feet straight across the river from where the accident happened.

A. I don't think 2000 feet across there.

Q. Well, here is where she was; here is where you show she was anchored.

A. Of course I may be in there further on this chart, because you said before I would get too close.

Q. I haven't put you anywhere. You put yourself.

A. It would be less than 2000 feet across there at that.

Q. Is point "A" the point of the accident?

A. Of course now, this is out further. That was in here too close. I would have to make this line closer, approximately the same distance off.

Q. Now, you make the point of collision—

A. The same distance out as along here according to this.

'Q. The corrected position of the collision we mark at what I call point "K" "Corrected point of collision fixed by Jordan." You now say, do you, that the collision took place at the point "K" instead of at "A"?

A. About that far, because it had to be out there if I was out that far, according to this scale, if that is the right distance. I don't know whether right from the beach or not.

Q. Well, you have it now 2000 feet nearly from the point of collision to the point where the barge was anchored. Now, you say do you that after that barge was broken loose from the Henderson, she drifted across the river to the point where you found her the next morning?

A. That is where I saw her.

Q. She must have gotten over by drift of some kind?

A. Yes, sir.

Q. She didn't have any power of her own?

A. None that I know of.

Q. And she must have drifted over?

A. Yes, sir.

Q. Now, the fisherman's boat didn't haul her over?

A. I didn't see her. I don't think so.

'Q. You didn't haul her over?

A. No, sir.

Q. She had no steam of her own?

A. I suppose they had steam, yes.

Q. She had no power of her own?

A. Not that I know of.

Q. You know she doesn't.

A. Pretty sure she doesn't.

COURT: No dispute about that, is there?

Mr. MINOR: I don't think so.

Q. The Henderson you say was found down on point "G"?

A. No, sir, I never said that.

Q. Didn't you?

A. No, sir. That is where I saw the Henderson the first time.

Q. Locate on this map where the Henderson was when you finally abandoned her that night.

A. That would be pretty hard to do, but here is where she went aground, over in here.

Q. Take any map that he sees fit. I want him to locate it on this map. Here is a map that you made—your counsel gave you. You marked the location of the Henderson here on Claimant's Exhibit "A". Now mark the location where you found the Henderson that night on Libellant's Exhibit 17.

A. Where we left her. I don't understand what you mean.

Q. Where you left her.

A. There is where we left her, down here, probably a little further out. This is a bigger chart and probably out here a little.

Q. How far from the shore was it? From the

point of Tenas Illihee Island—how far from the point was it?

A. I don't know. I never paid any attention.

Q. I mark that point that Jordan left the Henderson the night of the collision "L" on Exhibit 17. Now, you say when the collision took place that the Henderson broke away immediately from the barge.

A. Yes, sir.

Q. All her lines were parted, or do you know as to that?

A. I don't know as to that. Of course I couldn't see on that side. I suppose they did.

Q. You don't know whether the stern line may not have held a little while?

A. I don't think it held very long because it came right around.

Q. Captain Sorley, the master of Barge 93 has testified in this case that the stern line held a little after the collision. Is he correct in that or is he not?

A. I couldn't tell you. I don't know. I couldn't say.

Q. Now, then the collision occurred at where you have marked the point "K" as the corrected point of the collision. The Henderson if she had no power, if her steam pipes were broken, must have drifted with the current and she drifted over practically to the point "L" did she?

A. Yes, sir.

Q. Where did you haul her from the point "L"?

A. Well, as I have testified before, we didn't do

much hauling on her. We had a line on her. I don't suppose we backed up more than once or twice; only for a short time. The little backing we did, didn't have much effect on her.

Q. You were practically drifting to point "L"?

A. Yes, sir.

Q. You say she drifted with the current from the point of the collision across this deep water and down to the point "L"?

A. Yes, sir.

Q. Then according to your theory the currents on that river or the currents from the Grove Slough make off towards Tenas Illihee Island?

A. Yes, sir.

Q. Now, your theory is then that she drifted from the point "K" or the point "A", I don't care which, wherever the point of collision was, down to the point "L", with the current setting toward Tenas Illihee Island?

A. Yes, sir.

Q. You didn't help her going to the point "L" did you?

A. What little help we did would not have had any effect on her, I don't think.

Q. You couldn't get any effect on her from the other side to haul her to shore, could you?

A. We were in there. Were working ahead on her to haul her on the beach so she wouldn't float on down the river.

Q. Do you mean after she was at the point "L"

you worked on her?

A. Yes, sir.

Q. She was aground at the point "L" was she?

A. Yes, sir.

Q. Would that working on her then affect her in any way to go down the beach, if the current was to point "L"?

A. If the current there—sometimes it will take a whirl; the tide strikes different and float her off, so we just kept her in there to keep from washing away. She hit bottom here too, but she went on over.

Q. Where did she hit the ground?

A. Up here around the point. I couldn't tell you.

Q. Captain Jordan, you got this vessel, the Henderson, drifting from the point "A" to "K", across 62, 60, 53, 49, 39, 45 feet of water, quartering across the depth of the channel, into a channel where there is 8, or 9 or 10 feet where she foundered.

A. Twenty-seven feet where we left her.

Q. According to this chart there is not any such amount of water there.

A. I couldn't tell that is the exact spot. I didn't pay much attention to where she lay.

Q. Suppose the Henderson lay, instead of where you fix her at "L", at where I fix her with the cross marked "M", 1300 feet or thereabouts, between 1300 and 1400 feet from the range lights, towards the point, 1530 feet from the range lights, over opposite the point of Tenas Illihee Island, you say do you then that she drifted from this point of collision down to

that point?

A. Yes, sir.

Q. Then these fishermen that spoke of the currents of the river have testified wrongly in that?

A. I don't say that, no, sir.

Mr. MINOR: According to this scale of a thousand feet to the inch that would be 2500 feet.

Q. Put it a little further. She was 1530 feet from the range and opposite this point of Tenas Illihee Island. Now, you are sure then that she drifted over her own motion down that current and across on that point of Tenas Illihee Island?

A. Yes, sir, that is where she was lodged.

Q. The current of the river—now this is about half tide, it was an ebb tide the night of this accident.

A. Yes, sir.

Q. And the tide was setting in—about how fast would that current be with an ebb tide?

A. I don't know. I think running about two miles an hour. I don't know if running faster or slower.

Q. That would give you more speed going down the river than a vessel coming up against the tide and current?

A. Yes, sir.

Q. Now, the current of the river at this point sets in toward this bluff around Bugby Hole?

A. Yes.

Q. And when it strikes this bluff where does it go?

A. Part goes here and part down this way, through Prairie Channel.

Q. Where does the main current of the river go?

A. I suppose the current is a little stronger down the ranges. If over on this side of the ranges, current enough to take down Clifton Channel.

Q. That is your opinion?

A. I know it for I have towed logs up and down.

Q. The fishermen have described a different situation. It is up to you and the fishermen to tell it as it was and up to the court to decide about that. Your theory is if this accident had happened over on the Oregon side of the river, as we say, both of these vessels would have gone down Clifton Channel, or rather the one not anchored, the Henderson, would have gone down Clifton Channel?

A. Yes, sir.

Q. That is because the current sweeping around Rugby Hole and this bluff makes off to Clifton Channel instead of down the river?

A. I say part goes down the ranges and part down Clifton Channel. If had been down here would have gone down Clifton Channel.

Q. The barge was anchored in 7 fathoms of water?

A. Yes, sir, and tailed straight down Clifton Channel.

Q. If anchored in 7 feet of water, what do you mean by saying she tailed?

A. She must have had more than seven feet of water.

Q. I mean seven fathoms.

A. Her stern was pointed down Clifton Channel instead of down the ranges.

Q. Then that is what you mean by tailing in that direction?

A. Yes, sir.

Q. Now, Captain Jordan, your port barge didn't break loose on the first impact of that collision, did it?

A. No, sir, it broke a head line across between the two scows and the stern line from the steamer.

Q. But she had her stern line still on to the steamer?

A. No, sir, it broke.

Q. What line did she have on the steamer?

A. Had the tow line, head line and breast line.

Q. What lines after the impact?

A. That is what I mean, after the impact, tow line, head line and breast line.

Q. When the Samson backs, she backs to port?

A. Yes, sir.

Q. She can't back any other direction?

A. She will some times and under certain conditions.

Q. Well, under the conditions that existed that night, if she backed, she backed to port?

A. Yes, sir.

Q. That would have a tendency to throw her stern in toward the Oregon shore, and her nose out toward the Puget Island shore?

A. Yes.

Q. Or, as you say, would have a tendency to throw

her stern out to the channel of the river and her nose to Puget Island?

A. Yes, sir.

Q. How long had you been backing up to the time you got away from the wreck, or away from the Henderson?

A. I couldn't say. We backed about a half or three-quarters of a minute to the best of my recollection.

Q. Altogether?

A. Altogether.

Q. And part of that time you were probably backing before the second whistle was blown?

A. About the time the second whistle was blown. I don't know whether just before or just after. I am not positive which, but a few seconds either way.

Q. That wouldn't have the effect of the boat backing up? It wouldn't have a tendency to check your headway?

A. Check the headway, yes, sir, to a certain extent.

Q. You can't say, of course, Captain Jordan, whether or not the backing really pulled you out of the Henderson, can you?

A. I know it didn't because the Henderson was backing at the same time.

Q. The Henderson was backing at the same time and you were backing. Of course the Henderson was going forward and you were going down just the same, both wheels reversed. What pulled you apart?

A. They sheered away; the port scow began to

sheer off and the Henderson backed away. She backed clear around the stern of the oil barge and was still backing when I got straightened out to see the beach and where I was.

Q. What beach?

A. The beach of Puget Island. And I turned around to the Henderson to see where they were.

Q. Just a moment to go back to steering your barges, then I will be through with you. Now, you were rounding the point of Puget Island there; you have to round on a pretty hard aport helm, don't you?

A. At certain times; other times, all right.

Q. What times do you have to put on hard aport helm to go around there?

A. When a big tide and got the pressure; at flood it is very easy, slack water.

Q. At ebb tide?

A. Ordinary ebb not bad.

Q. Take this night in question: You said she steered hard; you said had hard work with the barges that night?

A. It took lots of helm to bring her around that night.

Q. You knew that before you reached the point where you first saw the Henderson, didn't you?

A. Well, I knew the conditions that existed there at that time of the year, yes, sir.

Q. You knew your tows were hard to handle before you saw the Henderson?

A. Yes, sir.

Q. You knew the state of the tide at that time; you knew the state of the current and you knew therefore your tow was hard to handle before you saw the Henderson?

A. Not a hard tow to handle; only thing, if you want to stop in a short distance or turn them around quick, then it is hard to, because it is heavy, but as far as the steering is concerned, after they are once straightened out, they will steer first rate.

Q. Didn't you say you were porting your helm all the while to get rid of the swash of this current?

A. Yes, sir, to keep her there. Still steering to keep in here above the ranges, as I wanted to all the time.

Q. You were still drifting towards the Oregon shore over here around this point of Puget Island?

A. Very little.

Q. That was the tendency of your vessel?

A. She followed this beach line around.

Q. That was the tendency of your vessel?

A. I suppose if I gave her starboard helm she would have gone the other way.

Q. You know what I mean. You had to give her a good deal of helm to get that vessel around that point, didn't you?

A. Yes, sir, I have said that twice.

Q. Notwithstanding the helm that you gave her, and after you rounded this point here you were about 400 feet from the point, you were 500 to 800 feet down at the point of collision, from the island.

A. I was further off. As I said I just guessed at the other, but according to the scale I must have been out further for I was only a little over half way towards the Puget Island side. I was a little closer to the Puget Island side than the Oregon side.

Q. Wouldn't that look to a man coming up the river that you were not changing your course any?

A. Well, it might, but if she swung at all, it would certainly shut out one of my lights for a while.

Q. Jordan, you said without any reference to any chart at all, that when you rounded the point of Puget Island—I mean the upper point that we are speaking of here—you were 400 feet off that point.

A. I just guessed at it. I couldn't tell. I couldn't say. I knew I was closer to the Puget Island side than to the Bugby side, but I couldn't say how much; but I hauled over to that side, the exact number of feet I couldn't say, but she kept about the same distance off the beach all the way around, as far as I could tell.

Q. About 400 feet?

A. Must have been more than that. I put her over about half way out here—along here.

Q. I understood you to say that you were 400 feet when you rounded the point and out some 800 feet when you got here.

A. I suppose I was off the beach 800 feet here. This may be 400 feet; may be 600 feet, I don't know. A little closer to the Island than to the Oregon side.

Q. That difficulty of handling your tow that

night and that difficulty of rounding that point on account of handling the tow, wouldn't that look to a man at point "G" where you first saw the Henderson —wouldn't that look as though you were keeping your course straight?

A. I couldn't tell how it looked to him.

Q. You are a seaman and we have a right to your judgment on that fact. I want to know what the fact is.

A. I think that I could see that he was trying to get out of the way by seeing that he was above the ranges, this man coming down—if I was going up and saw this man here coming down. If I had been coming up, would have blown two whistles.

Mr. MINOR: This question is on the theory of the Henderson and the oil barge situated where they were.

Mr. SNOW: No, no, both coming towards one another, wouldn't that look to a man at G if coming up the river, and you coming down the river, as if you didn't change your course?

A. As I say—that is pretty hard to tell. I couldn't tell as to that unless I knew his position; watching the boat, I could then tell you, but to stand here and tell you, I couldn't do it.

Q. Captain Jordan, don't you think that coming up the range line there, that it is the custom to take the port side?

A. It is at that point but up here they generally give the boat coming down the long bend in swift

water, or anything like that; give the boat coming down the long bend because it is easier for them to get away.

Q. You got the first whistle and accepted it as satisfactory?

A. Yes, sir.

Q. You didn't blow for any other?

A. No, sir, I naturally supposed he would give me some way too.

Q. You were perfectly satisfied with one whistle?

A. Yes, sir.

Q. Now, if you had that difficulty in steering, why didn't you call for the other course? Why didn't you blow two whistles instead of one, and say I have to take the starboard side of this?

A. For the simple reason I naturally supposed he would give me some room too—he would haul off too.

Q. Now, if you were having difficulty in handling your tow and taking care of that wash of that current, when he blew one, why didn't you blow two and say "You keep the other side of the river?"

A. That would have been a cross signal, then I would have been in trouble.

Q. Then if one man signals and directs you how to go, you have to take it?

A. Oh, no.

Q. What do you mean?

A. It won't do for me to answer one with two.

Q. What would you do to get the other side?

A. If I had to have the other side, I would blow

the danger signal and then two.

Q. That you didn't do?

A. No, sir.

Q. You were satisfied with the signal you received?

A. I naturally supposed he would give me room too.

Q. He supposed you would give him room; he says you didn't give him any; you say he didn't give you any. I want to find the truth about that. Now the vessels were about half a mile apart when that first whistle sounded. Is that right?

A. I think so, about that.

Q. Captain Jordan, what was the weight of your anchors on these barges?

A. I don't know what the weights of them were, I am sure. I suppose though they were not less than four or five hundred pounds.

Q. I don't want a guess. If you don't know, don't say.

A. I don't know.

Q. Who does know?

A. Mr. Kern may be able to tell you. I don't know whether he can or not.

Questions by Mr. ERSKINE WOOD:

Captain, do I understand you to say that going around the bend there of Puget Island, it is difficult to bring your tow around?

A. At certain times we have to be careful about it,

yes, sir. Never had any difficulty in there before or since.

Q. But as it was this night, how long would your boats have to run on a port helm before they would head into the shore?

A. They always have to carry quite a bit of port helm until we get in line with the ranges; then will steer first rate, that is, with strong ebb tide as there was that night.

Q. Have to carry strong port helm to make the turn?

A. Yes, sir.

Q. How long does it take you to make the complete turn with your vessel and those barges?

A. I think it takes about twenty minutes down there at Fort Stevens to round to, if everything is right—to stop and turn; takes fifteen or twenty minutes.

Q. How long would it take to go around that turn that night—to head those barges upstream?

A. Couldn't head around there; not room for it.

Q. Couldn't head around at all?

A. I tried the next morning and had to stop, turn around and back, to turn around and go up river.

Q. How do you mean? As I understand, you were headed upstream towards Puget Island after the collision?

A. Because was swinging and was close to the beach, and she got in slack water where it was shoal and when the anchors let go, swung around.

Q. How much water there?

A. I don't know. Probably three or four fathoms that the upper two were anchored, and I think sixteen feet where the lone one was.

Q. No current there?

A. Not to speak of where the scows were.

Q. Then at that time—

A. There was some where the two upper ones were but not much down at the lower one.

Q. Just before the collision you had got into a place where there wasn't much current?

A. No, sir, for the scows had gone in shore some of their own way after the collision.

Q. They went in after the collision?

A. In some, not much; probably 400 feet.

Q. You went in with them?

A. Certainly.

Q. Where was this accident you referred to down at Fort Stevens where you broke off your lines?

A. I don't remember. We broke down there different times and break them; sometimes hit a dolphin and break.

Q. You said you had had a former experience in breaking these lines, and it wouldn't check the headway.

A. The boat rolling will break them lots of times and only feel a jar on board.

Q. Break the lines?

A. Yes, sir.

Q. Did you ever run into anything down there?

A. I hit the dock one morning down there, and broke a couple of tow lines.

Q. That shows the tow is a little unwieldy, doesn't it?

A. That was more my own carelessness than anything else.

Q. How?

A. I should have stopped further back than what I did, let her drift longer. Didn't know the tide was quite as light as it was that morning and let her run a little too far.

Q. The Samson is a sea-going boat, isn't she?

A. Yes, sir.

Q. Quite a different boat from the Henderson?

A. Yes, sir.

Q. Propellor boat?

A. Yes, sir.

Q. What is the comparison in their power?

A. I couldn't tell you. I suppose the Samson has more power. I don't know whether she has or not. I couldn't say as to that.

Q. How is the stem of the Samson constructed? Built of oak?

A. I don't think it is. I think fir. I am not positive, couldn't tell you.

Q. It is a very much heavier and stronger built boat than any of these river boats?

A. Yes, sir.

Q. So the fact you say the Samson can run into one of these barges and make a hole twenty feet in

there, and not show on her stem, wouldn't show anything as to whether a river boat can do that or not, would it?

A. I have seen river boats in the river in a case like that and didn't mark them.

Q. I am asking you whether this experience you had with the Samson cutting into the barge twenty feet would be any indication of the stem referred to doing that? Isn't a river boat a barrel boat compared to a boat like the Samson—that is a shell—isn't it?

A. The Henderson is supposed to be solid construction.

Q. I am asking you whether or not it isn't comparatively a shell compared with the Samson's construction.

A. No, not a shell but of course not constructed as solid.

Q. How long after you veered off from the Henderson did you let go the lifeboat?

A. I don't remember just how long it took. We was pretty busy around there, all of us. Probably six or seven minutes getting out.

Q. You helped get her over?

A. Yes, sir.

Q. Did you hang on to her?

A. The life boat?

Q. Yes.

A. I was at one of the falls, yes, sir.

Q. Who hung on to her when she got away?

A. The mate and two men. I don't remember who

he had with him.

Q. What did he hang on to her for?

A. On to the boat?

Q. Yes.

A. They lowered her on the barge first, then shoved her out and jumped in and went away.

Q. When the boat hit the water, you still hung on to a painter to keep her following you?

A. No, just as quick as they could get in her, they both jumped in and went away, as much as I seen of her.

Q. Now, just to get your story straight as I understand it, I will repeat a little. As I understand you, you got around the bend of Puget Island at Buby Hole on a port helm, and saw the Henderson, and put your helm a little more port and ran down and when you were within about half a mile of her, the first exchange of whistles took place, and you put your helm a little more port, and then you ran on down until the collision took place. I don't understand how long it was that you ran on a port helm after you first saw her.

A. I think it was about between five and six minutes from the time I got the first whistle until the collision took place, and I couldn't have seen her more than a minute-and-a-half or two minutes before that.

Q. So you ran six or seven minutes on a port helm there?

A. About that.

Q. And five or six minutes on more port helm?

A. Yes.

Q. And thirty seconds or a minute on hard aport helm?

A. Did you say six or seven minutes the first time?

Q. Yes.

A. No, sir. I said a minute-and-a-half or two minutes from the time I started around there until I saw her lights and heard the whistle.

Q. I understood you to say you ran after the first whistle five or six minutes.

A. Until the collision, yes, sir, and I had run about a minute-and-a-half before that when I seen her.

Q. I say you ported your helm as soon as you saw her?

A. Yes, sir.

Q. So you ran six or seven minutes on a port helm?

A. Altogether, yes.

Q. And five or six minutes on more port helm?

A. No, sir.

Q. You said so?

A. No, sir.

Q. You said after the first whistle you put your helm more aport.

A. Yes, sir, but only five or six minutes from the time I got the first whistle until the collision took place, and she hadn't been in sight but a minute-and-a-half,—and of course I didn't give any port helm until I got to this point.

Q. I don't seem to figure it right. How long do you say ran on port helm?

A. Say seven-and-a-half minutes from the time I first saw her until the collision.

Q. All the time on port helm?

A. Yes, sir.

Q. And increasing all the time?

A. Yes, sir.

Q. Until the last thirty seconds or minute it was—

A. (Interrupting) Hard over.

Q. (Continuing) Hard aport?

A. Yes, sir.

Q. You are positive when you came around the bend there you were closer to Puget Island than you were to the middle of the river?

A. Yes, sir. At least it looked that way to me. Awful hard to tell exactly in that hole on a dark night. I don't think anybody could tell exactly their position.

Q. Are you sure you weren't in the middle of the river?

COURT: You have been all over that.

Mr. ERSKINE WOOD: All right, he has said he was close to the island. I will read him some of his testimony.

Q. Captain Jordan, are you positive you weren't out in the middle of the river when you rounded that bend?

A. It looked to me as though nearer to the Puget Island shore than I was to Bugby. That is where I

think I was, closer as far as I could tell.

Q. Are you positive that the collision occurred above the ranges?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir, I am sure I was never down on the ranges.

Q. Are you positive it occurred a considerable distance above the ranges?

A. I don't think it was so very far above the ranges. I think about 200 feet. I couldn't say positive, but I think.

Q. 200 feet above the ranges?

A. I think so, as near as I could guess at it.

Q. Have you read over the record of this testimony before the inspectors, Captain?

A. Part of it.

Q. Your part?

A. Not all of it, no, sir.

Q. How much of it have you read?

A. I don't remember the number of the pages. The first part, there was something there I don't know anything about. I thought it was in another book and I didn't see it.

Mr. MINOR: It was right in that first part. You see another witness was put on.

Q. Captain, you said on your direct examination that you didn't hear any order given from the forecastle head of the oil barge or the Henderson. Didn't hear any orders when?

A. I didn't hear any orders given, no, sir. What they asked was any orders given to me from the forecastle head of the oil barge.

Q. No, that was not what was asked. That was asked at first, and later corrected to whether you heard any orders given at all, and you said no.

A. As I understood it was, was any orders given me from the oil barge.

Q. Did you hear any orders given from the forecastle of the oil barge?

A. I don't remember. I don't think so.

Q. I understood you to say no such orders given.

A. Not to me.

Mr. MINOR: I asked him whether any one gave him orders or called his attention from the oil barge or the Henderson to back.

Q. I will call your attention to your testimony on your trial before the Inspectors, which shows what you thought at that time about how close the collision occurred to the ranges, and also about whether you heard any orders from the forecastle head to anybody: "Q. Was she heading for the shore or from it? A. That is the way she was going, it looked to me (illustrating). She was heading across this way all the way, but when we got up here where the collision took place she began to pay off and go like that. She was almost on the ranges at the time of the collision. It was a very few seconds before she began to pay off; and we come right alongside of her. We could hear a man in the forecastle head hollaeing

something, I wasn't sure what it was." Do you remember that?

A. Yes, I remember hearing a man hollaeing but not to me.

Q. No, I didn't mean to you.

A. I didn't understand any orders at all now.

Q. And you remember being almost on the ranges at the point of collision?

A. I think off about 200 feet; pretty close to them.

Q. Do you remember saying you were in the middle of the river at the time of the collision?

A. No, sir.

Q. How wide is the channel there at the point of the collision?

A. I thought it was about 1500 feet but I have found out since that it was wider.

Q. Well, how wide is it?

A. 2500 feet I believe.

Q. You remember saying that the collision occurred a quarter of a mile from the Oregon shore?

A. No, my recollection is that I said it was—it occurred about a quarter of the way across from Puget Island to Tenas Illihee Island.

Q. I will read to you, Captain, from your testimony.

Mr. MINOR: This is not the testimony taken upon the trial?

Mr. ERSKINE WOOD: This is the preliminary examination into this before the Inspectors. Questions by Captain Sullivan.

Q. I will ask you whether you testified as follows, Captain: "Q. You say, Captain Jordan, that the river being a half mile wide, and it occurred about a quarter of a mile from the Oregon, or the Washington shore, I believe you said, that it would bring us about the middle of the river when we collided. A. I said next to the Oregon shore. Q. A quarter of a mile from the Oregon shore? A. Yes, sir. Q. You estimate the full width there a half a mile. Then if there was a quarter of a mile from the Oregon shore, that would be the middle of the river—half of the half mile? A. Not necessarily, no. The half mile I have reference to is between the two lands, the width of the channel east and west, not north and south. Q. Well, perhaps I am mistaken. I thought you were asked the question by Captain Edwards how wide the place was."

Mr. ERSKINE WOOD: I think I will omit this, and go on to the next place. (Examination continued by Captain Sullivan): "Q. Then we would agree that would be about the middle of the river, providing in your direct testimony you said we were a quarter of a mile from the island shore when we collided; that would be half of the distance, would it not? A. I said we were a quarter of a mile from the Bugby shore, not from the Island shore. Q. I don't understand you yet, where the Bugby shore is. A. A quarter of a mile from where you were anchored. Q. That would bring us to the middle of the river; is that the idea? A. Well, about that, yes. Q. Well, that is

the idea. A. A little to the right on the river, according to my idea. Q. How far apart do you estimate we were when I first whistled? A. I should think a half a mile. Q. And the barge, our tow, was in the middle of the river. A. You were on the ranges, as near as I could tell. Q. A quarter of a mile from the shore, you say, and you put your helm to port at this time? A. Yes, sir. Q. When I first whistled? A. Yes, sir." \* \* \* \*

Did you so testify—as I have read you, Captain?

A. I suppose I did. If it is down there, I must have.

Q. Now, further on in the examination: "Inspector Edwards: Wait a minute; he asked you the question—now, when he answered your whistle, you mean? Captain Sullivan: Yes, sir. Inspector Edwards: First closer to the island side or to the Oregon side; where were you? A. I was about the center of the river when I got his first whistle. Inspector Edwards: About the center of the river? A. Yes, sir, the middle of the channel, I should judge. Inspector Edwards: When you got his first whistle? A. Yes, sir. Inspector Edwards: You understand that? Captain Sullivan: Yes. Inspector Edwards: Then go ahead. Q. (By Captain Sullivan) And we were about the center of the river at the point of collision. A. We were a little to the right of the river, on the starboard hand side, the Puget Island side, when that collision took place. Q. We agreed on that part. We agreed you were a quarter of a mile from shore; that

would be half of a half mile; so it was approximately the middle of the river? A. Yes, sir."

Did you so testify?

A. I suppose I did. Of course, being night that way, I couldn't tell how wide the river was, or anything like. Just guessing at it.

Q. Your first impression of this collision when you were first called upon to recount any history of it at all was that it occurred about the middle of the river?

A. About the middle of the channel.

Q. It says middle of the river.

A. I meant channel.

Q. Isn't it a fact that at that point the river is deep water from shore to shore?

A. Yes, sir.

Q. The whole river would be channel?

A. We generally call the ranges the channel. That is the reason we don't get above or below the ranges very far.

Q. If you said you had the collision the middle of the channel you would mean the middle of the ranges, is that it?

A. About the middle of the ranges, yes, sir.

Q. The ranges is a straight line, isn't it—no middle to it?

A. Marks the middle of the channel. Where the range lights come up is the channel and that would be the middle of the river—the middle of the channel. That is what I had reference to, if I didn't say it.

'Q. How far do you say it was now from where the oil barge came to anchor to the point of collision?

A. I say about a thousand feet across there according to this scale here—marking here—2000, I forget which.

Q. Irrespective of the scale. You remember how it was, don't you?

A. I think about a thousand feet across there.

Whereupon proceedings herein were adjourned until Saturday, January 11, 1913, 10 o'clock a. m.

Saturday, January 11, 1913, 10 a. m.

CAPTAIN JORDAN, resumes the stand.

#### Cross Examination continued.

##### Questions by ERSKINE WOOD:

Captain Jordan, at the preliminary investigation before the Inspectors, to which we have referred before, did you testify as follows in answer to the question of Captain Edwards: "At the time of the collision about how far were the vessels from the Oregon shore? A. Oh, from the Oregon shore, I should judge they was at least a quarter of a mile. Q. A quarter of a mile? A. Yes, sir." Did you so testify?

A. Yes, sir, but I had reference to the bluff at Buggy Hole at that time.

Q. You had previously said, had you not, that the river at the point of collision was a half a mile wide?

A. I don't remember. I may have said it.

Q. Did you testify as follows on the same examination: "Q. You say you were about a quarter of a

mile from the Oregon shore when you collided? A. I should think it would be about that. Of course I couldn't say exactly but I think it was about that." Did you so testify?

A. I expect that I did.

Q. At the same examination, did you testify as follows: "Yes, I know about 1200 feet and you think that the collision took place about in the middle of the channel? A. I think it did, yes. Just a little to the right of the channel." Did you so testify?

A. If it is down in the testimony, that is what I testified, yes, sir.

Q. Captain Jordan, at the same examination in answer to Captain Edwards, did you not testify as follows: "Q. About how wide is the channel down there at the point of the collision? A. I should judge about half a mile. Q. About half a mile. Good water up? A. Well, on the starboard side there is. A seining ground there; it shows up on that on the Puget Island side, what is known as the Ostervolt seining ground there." Did you testify as I have read?

A. Yes, sir.

Q. Now Captain Jordan, you testified yesterday that the green light on the oil barge flashed out of sight just a second, as if a stay possibly had passed in front of it, and you said too, though, it was only once. Later on in cross examination you said it might have gone out of sight twice. I will ask you whether or not on the same examination before the inspectors, the preliminary examination, you didn't testify as follows:

"Inspector Fuller: Now, you were looking down stream? A. Yes, sir, that is the way I was going. Here is the range of lights and this is Skamokowa light (indicating). Now, when I rounded Bugby light I headed straight for Skamokowa light. Q. You headed from there to there? A. Well, I always keep the starboard side going down until I get the light by me then I head the Skamokowa light; that brings me close to the Puget Island side. I just got around to this point here (illustrating) where I could open up the Skamokowa light when I saw him coming, I should judge down about here (indicating) with the barges. I knew she was steering bad. I could see first the red light, then both of them, and I told the sailor to port his helm and blow the whistle." Did you so testify?

A. I never told the sailor to blow any whistle until after I heard his whistle from the oil barge.

Q. Did you so testify as is here—as I have read to you?

A. Well, I don't know what you have previous to that. I never told the man to blow a whistle until I heard a whistle from the oil barge.

Q. But you did observe the lights as you testified in the testimony I have just read to you?

A. Yes, sir.

Q. And thought she was steering bad?

A. Yes, sir.

Q. The only exceptions that you make is that you did not blow a whistle before you received one?

A. That was it.

Q. That is the only difference?

A. Yes, sir.

Q. On your trial, Captain Jordan, which occurred a few days after this preliminary investigation to which we have referred, when you were put on your trial before the Inspectors for this collision, didn't you testify as follows: "Q. What lights did you see from the Henderson? A. Well, she was lit up very bright; her gangway doors forward were open and I could see the reflection very plain from them, the lights themselves: also a red light; and I hadn't determined yet whether her green light was in sight or not because these bright lights were so very bright that it would kind of dim this green light. And then I said to the man at the wheel, 'There's some fellow coming there; we will have to watch him:' and just about that time she opened up her green light, and then she shut it out again. Mr. Snow: Shut it out? A. This green light, yes, sir. I says 'That fellow is steering bad. We will have to watch him, John.' That is the man at the wheel I was speaking to. 'We will have to give him plenty of room.' So I watched him a little bit. Pretty soon the green light opened up again a very few minutes; well, it wasn't a minute, less than a minute, a good deal; and shortly after that he blowed me one whistle. I answered." Did you so testify?

A. Yes, sir.

Q. Again referring to your testimony at your

trial, Captain, did you testify as follows: "You say that she showed the green light at times and then would shut it out at times? A. There was only twice it was shut out, and then just for an instant. All the rest of the time it was in sight all the time. Q. Well, then she wasn't steering very bad if she only shut it out for an instant, was she. A. Well, this was after the whistle that I had reference to, those whistles. Q. Did you notice it before? A. I had seen it, yes, sir. That is when I told the man at the wheel he was steering bad, to watch her." Did you so testify?

A. Yes, sir.

Q. Now, Captain, isn't it a fact that having located the Barge 93 when you first saw her some where near on the ranges, the effect of this testimony of yours showing that she shut out her green light, though you say only slightly, would be to show that the oil barge was veering over toward the Oregon shore even though it may have been not very much? Isn't that the effect of that testimony?

A. No, not necessarily.

Q. How would it point then?

A. As I said before, they may have been a small something in front of the light that would shut her light out. That is the only thing that would do it. That is the way it looked to me.

Q. The only thing that would do it?

A. Yes, sir.

Q. It wouldn't be possible then she was swinging off the ranges toward the Oregon shore enough to

shut out her green light?

A. It could be possible but from the appearance, I think not.

Q. You think not?

A. Yes, sir.

Q. You think then she was not sheering off the range?

A. I think not.

Q. Then Captain, I wish you would explain to me why you told your helmsman repeatedly that the boat was steering badly and you would have to watch him, if you didn't think it was swinging but thought this was just a stay line in front of the light?

A. I could see she was swinging more or less. They can swing to a certain extent and running ahead, and you still could see both lights.

Q. She was swinging then?

A. To a certain extent, yes.

Q. She was swinging off the range to starboard?

A. I didn't say swinging off the range to starboard.

Q. What made you think he was steering bad, then?

A. The way he acted?

Q. How?

A. Because I could see him head first a little to starboard, then to port, but not far enough to shut out the lights.

Q. Not far enough to shut out the lights?

A. No, sir.

Q. How could you tell she was swinging at all then, that distance, if the lights weren't shut out?

A. Because I was watching the ranges, and I could see whether he would head toward the ranges or head off of them.

Q. You could?

A. Yes, sir.

Q. Over a mile away?

A. I didn't say a mile away, but to the best of my recollection.

Q. How far?

A. I think was between a half and three quarters of a mile away when I first got a whistle.

Q. This was before the whistle?

A. Well, I got a whistle; I hadn't run only a minute or two minutes from the time I seen him until I got the first whistle.

Q. I want to know, on a dark night between three-quarters and a mile away, if you could tell whether that boat was swinging or not, with both her lights in view, and the range lights themselves three miles down the river from you?

A. I don't understand your question.

Q. You undertook to tell me that you could tell that the oil barge No. 93 was steering badly, veering from side to side, by comparing her with the range lights.

A. Yes, sir.

Q. Although both her lights were in view?

A. Yes, sir.

Q. You could tell that?

A. Yes, sir.

Q. And yet you couldn't tell me yesterday whether she was on the ranges or not?

A. No, sir.

Q. Although before the inspectors you said that she was on.

A. I was not positive of that, no sir.

Q. Well, Captain, how far does the boat swing to one side or other of a point dead ahead for you to call her steering badly?

A. Well, if a boat is swinging off more than half a point, I don't consider doing very good steering.

A. Well, if it swings off half a point at the distance you were from her that night, would the green light shut out?

A. It should, yes.

Q. It should shut out?

A. Yes, sir.

Q. If she didn't swing that far it would not shut out?

A. It might, yes, sir.

Q. What do you think?

A. That is a hard question to answer; some boats will swing three-quarters of a point and not shut out her lights.

Q. She might then have swung more than three-quarters of a point in order to shut out that light?

A. She may.

Q. That would indicate heading pretty well over

to the Oregon shore?

A. I wouldn't like to answer because I don't know; that depends on how the lights were arranged.

Q. That would be possible?

A. On some boats.

Q. Now, Captain Jordan, it seems to me the effect of your testimony is this: Either she was steering so far to her own starboard, shutting out her green light, that it caused her to veer toward the Oregon shore, or else she was steering practically up the ranges, not veering at all. Now, which do you mean?

A. I didn't say that her steering caused the green light to shut out.

Q. You certainly thought so when you testified before the Inspectors.

A. I never thought so, no, sir.

Q. Why did you repeatedly tell your helmsman she was steering bad; "we have to watch her; her green light is shutting out?"

A. I never told him that. I told him she was steering bad but I never told him that the green light shut out.

Q. Do you mean to say that this testimony of yours that I have just read to you doesn't indicate that the reason you thought she was steering bad was because the green light shut out?

A. I told the helmsman she was steering bad, and I told Captain Edwards that the green light shut out for an instant once or twice, but it was not on account

of the green light shutting out that I told the helmsman she was steering bad.

Q. It was not?

A. No, sir.

Q. Positive of that?

A. Positive of that. The reason the green lights shut out in my estimation was a stay or some other such article passed in front for just an instant, or second, or some such matter of time.

Q. Then you meant that both her lights were in sight practically all the time?

A. Yes, sir.

Q. Then that wouldn't indicate that she was steering bad, would it?

A. According to the lights no, but from different ranges that I could see, I could understand that she was not steering well, and from what I have heard the different pilots say, I know that these oil barges do not handle well.

Q. Now, Captain Jordan, you say it was not the shutting out of the green light that caused you to think she was steering badly, and I want you to state in detail just what it was that made you think she was steering badly.

A. I was going to say that these ranges open on the upper side, and they were keeping about the same distance apart, and I could see that that boat swung a little either side of those ranges at different times, and that gave me the idea that the oil barge was not steering well.

Q. You say then that the oil barge swung between you and the ranges—kept passing between you and the range light?

A. No, sir, I never said so.

Q. What do you say?

A. Why the ranges being open, they kept open for me about the same all the time, but at the same time, I could see this oil barge swinging first one way and then the other in that same open space, but she never shut out the range lights.

Q. What could you see of the oil barge that would show she was swinging?

A. I could see her lights.

Q. What lights?

A. Red and green and two masthead lights of the Henderson.

Q. But you said they had nothing to do with it.

A. No, sir.

Q. What lights could you see which told you she was swinging between the two range lights?

A. I could see her lights moving between the two range lights, sir. That is the way I could tell there was a tow coming.

Q. How wide apart were the range lights there as it appeared to you?

A. They appeared to me open about six feet on the upper side. That is approximately. I couldn't tell you of course. It is a long way off to tell within a few inches.

Q. What lights were those on the oil barge, now,

that showed you she was swinging, if they were not the side lights?

A. The oil barge and the Henderson I considered as one.

Q. Yes, you are right.

A. The green light was on the starboard side of the oil barge; the red light on the port side of the Henderson; two main head lights on the Henderson and a small light, the stem light, forward on the Henderson.

Q. How are those mast head lights arranged? How were they arranged that night?

A. I don't know how they were arranged that night. I know how they were when I was on it.

Q. Did they appear that night to be one above the other?

A. Yes, sir.

Q. In a straight line?

A. Well, they are not exactly in range; they are carried on a cord, and some times one will swing one side or the other.

Q. Then the other light, where was that?

A. I couldn't tell you. I wasn't aboard.

Q. How did it appear?

A. It looked to me as though one in the forward rigging, or abreast the forward rigging on the oil barge; the other the port side of the Henderson on the hurricane neck is the way it looked to me.

Q. How did those lights swing so as to show the boat's swinging?

A. Those lights did not swing.

Q. They were swinging as I understood you in relation to the range lights?

A. Yes, sir, they moved in towards the range lights then above them again.

Q. Which range light did they move towards? As I understand the boat appeared to you to be in between the two range lights?

A. Yes, sir.

Q. Which way did it move?

A. Moved down the ranges and then further above them again. That is, not toward the ranges but towards where the ranges would lead if you were on them.

Q. Move down—

A. She was not going down the river; she was coming up the river on those ranges.

Q. And she would swing over toward where the range lights lead to, following up the ranges, then she would swing back again?

A. Toward the Puget Island side, yes, sir.

Q. But she wouldn't swing enough to obscure either of her side lights?

A. No, sir.

Q. You could tell then she was above the range, could you?

A. I thought she was, yes, sir.

Q. She must have been, mustn't she, if she would swing over towards the ranges, as you say?

A. It led me to think she was above them, yes,

sir.

Q. Yet, before the Inspectors, you thought she was on them.

A. On them or about there. She wouldn't be off but a short distance.

Q. Captain, you said you thought she might be on them.

A. It is possible she was. I couldn't just swear to that. A long ways off, you can't tell exactly, especially in the night.

Q. If it was on them, she couldn't have swung to the starboard toward the range as you have just described, could she?

A. Had she been exactly on them I couldn't have seen the ranges at all.

Q. You couldn't have seen the ranges?

A. If she had been exactly on them, I don't believe I could have seen them.

Q. Couldn't have seen the range lights?

A. No, sir, I think not.

Q. Why?

A. Well, her hull and the Henderson, one or the other would have shut one of the ranges out.

Q. Where were you at that time?

A. I was going down the river from Bugby.

Q. Well, at that time, when you were going down the river into Bugby, how far had you got around the bend there at that time?

A. Which time?

Q. At the time that you say the oil barge was be-

tween you and the range lights, and that, if she had been on the range, she would have obscured the range lights from you.

A. I saw the oil barge as soon as I got down to the point far enough to see down the river.

Q. Now, Captain Jordan, here is the question: You say that if the oil barge had been on the range, you were in a position where you couldn't have seen the range lights; they would have been obscured by the hull of the oil barge. Now, I want to know how far down the river you mean you had got.

A. It would make no difference as to that if they were exactly on the range, or anywhere that I would come in line between them and the range lights.

Q. Sure.

A. The Henderson would be high enough to shut out one of the lights; one or the other. I would not be able to see both of them.

Q. That was from the position you were in?

A. Wouldn't make no difference what position in; if they were between me and the range lights there would certainly be one of them shut out.

Q. You said from the position you were in at this time we were talking about, if the oil barge had been on the range, you would not have been able to see the range lights. Is that right?

A. Yes, sir.

Q. That is, you must have been at that time on the range, must you not?

A. I never was on the range. I never got down

to the range that night.

Q. Then I wish you would explain that. How could the oil barge or the Henderson hull shut out the range lights from where you were, unless you were on the range?

A. She never shut them out.

Q. You said she would if she had been on the range.

A. She was not on the range. If she had been she would, but she was not there. That is all supposition you are talking about now. I see no sense in that.

Q. We are talking about your position, and you said if the oil barge had been on the range she would have obscured the range lights from your view. Wouldn't that have put you on the range?

A. If the oil barge passed between me and one of the lights with the Henderson's house sticking up, it would shut out one—

Q. I would like you to shut out one—

Mr. MINOR: Let him answer the question.

Mr. ERSKINE WOOD: You can answer that question yes or not. That is a yes or no question. You can explain it afterwards.

A. I can't understand what you are getting at myself.

Q. Now, Captain, will you answer that question I put to you?

A. You will have to tell me what the question is. Question read: "We are talking about your posi-

tion, and you said if the oil barge had been on the range, she would have obscured the range lights from your view. Wouldn't that have put on the range?"

A. Not necessarily?

Q. All right. Now, explain that, why it wouldn't.

A. Because the light is only about six inches wide.

Q. What light?

A. The range lights, and the Henderson and her tow were probably about 70 feet wide, and 70 feet wide would certainly shut out more than six inches.

Q. And at that time how far was the Henderson above the range lights?

A. I couldn't tell you. I don't know.

Q. You can approximate it.

A. I couldn't say, no, sir.

Q. Well, you stated she was somewhere near the lower end of Puget Island. How far is that above the range lights? How far is it from the foot of Puget Island to the range lights?

A. From the foot of Puget Island to the range lights?

Q. Yes.

A. I guess it is about half a mile across that channel, Cathlamet Slough there.

Q. Is that all it is?

A. I think so. I don't know. I never measured it and couldn't tell you.

Q. Captain Jordan, on your trial heretofore referred to, did you testify as follows: "When the first whistle was blown and answered, what shore were

you closest to? A. I was closest to the Puget Island shore. Q. Still closest to the Puget Island shore? A. Yes, sir. Q. And when the collision took place, which shore were you closest to? A. Puget Island. Q. How far from Puget Island shore were you? A. Well, I think, about eight hundred feet. Q. About eight hundred feet? A. Approximately; I could not say exactly. Q. And about how long before that was it that you gave the order to hard aport? A. I gave the order hard aport just shortly after I got the first passing whistle. Q. Just shortly after you gave the first passing whistle? A. Yes, sir. Q. And that would be how long before the collision? A. Well, probably five or six minutes." Did you so testify?

A. I suppose I did if it is in that testimony that was given before the Inspectors. That is what I testified to.

Q. Don't you remember that?

A. I think I did. I couldn't say positively now. That has been a year and a half ago.

"Q. You were down about in here somewhere? A. Yes, sir, when I put it hard aport. Q. A distance of about how far between port and hard aport? A. Probably a quarter of a mile. Q. And how much will she swing on a port helm in a quarter of a mile? A. Well, that is all owing to the conditions of the tide and wind. Q. As existed that night, or that morning? A. She would not swing very much. Q. She would not swing? A. No, sir. Q. But she would swing some? A. She would go some; not very much, on

account of the conditions of the time. Q. And she was still swinging when you gave the order hard aport? A. She was still coming, yes, sir. Q. Still swinging to port? A. Yes, she was still coming. Q. And you gave the order hard aport? A. Yes, sir. Q. Then you ran under that for five or six minutes? A. Probably that long; I could not say exactly as to that, of course." Did you so testify?

A. Yes, sir.

Q. And on the same trial, Captain, did you testify as follows: "Q. And then you got down here about a quarter of a mile, and then you gave the order to hard aport? A. Yes, sir; that is it. Q. Then you ran five or six minutes, I thought, on hard aport? A. Well, something approximately that. Q. Something approximately. Of course, we are taking all of these approximately. You ran five or six minutes with her hard aport?"

Q. Did you so testify?

A. I suppose that I did, yes, sir.

Q. Why, Captain, don't you remember that you did?

A. I don't remember the exact words. I couldn't tell you, but if it is in that testimony, that is what I testified to, yes, sir.

Q. Now, Captain Jordan, you said yesterday very emphatically that you didn't put your helm hard aport until just about the time of the second whistle, and about that same time, you reversed your engines full speed astern, and that the collision happened about

thirty seconds, as near as you could remember, after that. That is a wide discrepancy in your testimony and I want you to explain it.

A. I don't understand your question.

Q. I mean this: Before the inspectors, you testified as I have read to you, that coming down Puget Island shore there you ran for five or six minutes on a hard aport helm. Now you testify that you only had your helm hard aport for about thirty seconds.

A. I told the man at the wheel to port, and kept telling him to port and what little distance she would be between when he had her nearly hard over and hard over would make but practically little difference in the position of the rudder; in fact the boat will do better when not hard over, running wide open, than she will when hard over.

Q. You mean now, then, that you ran for five or six minutes with your helm practically hard over?

A. Yes, sir, that would be about it.

Q. You ran five or six minutes with your helm in the position which would throw her most quickly over toward the Puget Island shore?

A. I had her going toward the Puget Island shore all the times, yes, sir.

Q. I want you to answer my question. Read the question.

Question read.

A. Yes, sir, that is the way I had it.

Q. Then Captain, I want to ask you this: If your wheel is not as effective when she is hard over as it is

when it is not quite hard over, why, at the second whistle, in order to get nearer the Puget Island shore, did you put her hard over?

A. I did not say that it was not as effective; I said it would not do any more good, because the kick from the wheel is straight against the rudder at that time, and if she has a little chance for the water to get her, I have found that the Samson will handle better not quite hard over. That is my opinion. Different captains handle different.

Q. Why did you put her hard over at the second whistle?

A. For the simple reason to avoid a collision. If anything went wrong, the Inspectors would certainly ask me why I didn't put the wheel hard over.

Q. You were thinking of the Inspectors at that time?

A. I was not thinking especially, but I knew that was always good—put them hard over. I never had any trouble before and know nothing about it. Never had any since.

Q. Captain, if your boat ran five or six minutes, starting from a point at the bend of Puget Island, approximately 400 feet off shore, on a helm which was most effective to throw her bow to starboard, wouldn't she run into Puget Island bank before she ran five or six minutes?

A. Not under those conditions, no, sir, she would not?

Q. Why not?

A. Because the current setting away, and as you go down through Bugby Hole she is heading down through Prairie Channel, and the current setting down through that way, as soon as you get your scows broadside across the current, it is shoving her down more all the time, and she will not make time under those conditions.

Q. Then your tow was not really under control, was it?

A. I had it under very good control, yes, and I was not attempting to land on Puget Island.

Q. Do you consider that your tow is in good control when you put your helm in the position most effective to control it, and she won't obey it in the current you were in, for five or six minutes?

A. She obeyed as far as she could under those conditions. If I had wanted to land on Puget Island, I would never go down Bugby Hole wide open. No, sir, that is impossible for anybody to do.

Q. Captain, how was it that if she couldn't hit the Puget Island shore with the conditions we have described, but instead kept setting away from the shore—how was it that after the collision, in a distance of 400 feet, she turned from a position with her bow headed diagonally down stream to a position headed diagonally upstream, in four hundred feet?

A. For the simple reason that the boat had been heading into Puget Island. I had stopped and backed on her, which had a tendency to throw the bow in, and beside that was due to set of current to Prairie Chan-

nel, and would head to Puget Island most any time then.

Q. In 400 feet would head from down stream to up stream?

A. No, sir.

Q. From diagonally down stream to diagonally up stream?

A. No, sir, not going straight ahead.

Q. By backing she would?

A. By stopping and backing and checking her headway and being outside the current would have more tendency to go into Puget Island.

Q. That is how you account for it?

A. Yes, sir.

Q. Don't you remember saying yesterday that backing of that boat had no effect moving that way?

A. On checking headway, no, sir.

Q. I thought you said no effect either checking or swinging in your opinion.

A. I said the swinging and what little backing she would do would not help her much, if I remember right. I think that is what I testified to.

Q. Captain, do you remember your own Captain, Captain Church, testifying before the Inspectors at your trial, and saying that in his opinion, if you had the helm in the position which you say you did, under the conditions that night, and ran for that time and distance you say you did, don't you remember his saying that in his opinion, your boats would have been ashore?

A. No, sir, I do not.

Q. Captain Jordan, yesterday you said that this dent which was made in the bow of barge No. 9, a little on the starboard side and in your opinion by the stem of the Henderson, was a foot or two to the starboard of the exact stem of the vessel. Do you remember saying that yesterday?

A. Yes, sir.

Q. Is that your opinion now?

A. I couldn't say. I don't remember. This is a year-and-a-half ago. I wouldn't say positive because I don't remember, but that is my recollection. May have been further away, one way or the other.

Q. Well, I will try to refresh your memory. Do you remember on your trial testifying as follows: "The testimony showed here yesterday or the day before that this place where the Henderson struck was about six feet back on the starboard side. A. Well, it wasn't six feet back. It was six feet away from the middle of the stem, middle of the bow. Q. Six feet around? A. Six feet around, yes; it would not be that far aft. Q. Taking the center line, the keel line, it was about six feet around from the center of the barge. A. I can show you here much easier. You see that is the center (illustrating); it struck over here; of course that would not be six feet aft. It would be six feet around here." Do you remember that?

A. I don't remember the testimony but if that is what I testified to, it must be correct, because that

thing was fresher in my mind at that time than it is now. I don't exactly remember the condition of the scow now, for it is a year-and-a-half ago, and that is some time to remember those little instances.

Q. At the same trial, Captain, did you testify as follows, referring to the dent: "And you think the only thing that could have done that was the stem of the Henderson? A. I am positive of it; I saw it happen myself. I saw the strike. Q. You saw it strike? A. Yes, sir. Q. That is she struck the starboard side?

A. Of the port scow; the starboard bow of the port scow. Q. I mean the starboard side of the port scow ran into the stem of the Henderson? A. Yes, sir. Q. How far around? A. The starboard bow, not the side of the bow. Q. I know the starboard bow, but the bow on the starboard side of the bow, that was how far around? A. Six feet from amidships probably, six or eight feet, six feet." Do you remember testifying that way?

A. I don't remember the exact words but I gave my testimony before the inspectors, and I suppose that is what it is.

Q. You spoke of paint from the oil barge showing on the port side of Barge No. 9 the next morning, both yellow and black paint?

A. Yes, sir.

Q. What part of the barge was that on?

A. Well it was along forward on the port side; there was also some aft on the fender post of the port scow.

Q. How far above the water would that be?

A. Only a short distance above the water. I don't remember now but I remember looking at the paint there, seeing where it had been rubbed on.

Q. About how high was it?

A. I don't remember. That on the barge forward would be just a little above the water line, because the barges are only out of the water between six and ten inches; aft on the fender post—the fender posts are up about five feet high above the deck, and there was paint on that but the exact spot I couldn't tell you, for I don't remember.

Q. Captain, how far aft is this fender post?

A. The fender post is about in the neighborhood of fifteen feet forward of the stern of the scow.

Q. And whereabouts on the forward part was the paint?

A. It was right on the hull of the barge; nothing forward on the hull; everything is clear forward.

Q. Was it on the rounding part of the bow or along the side?

A. Along the side, right from the bluff aft.

Q. Right from the bluff?

A. Bluff of the bow, yes.

Q. What do you mean by that?

A. Where the sheer starts.

Q. You say you saw yellow and black paint?

A. Yes, sir.

Q. Where was the yellow?

A. On the scow.

Q. Which part?

A. On the hull of the scow, forward, just aft the bluff of the bow; also some on the fender post aft.

Q. Yellow paint on both spots?

A. Yellow and black paint.

Q. On both places?

A. Yes, sir. Mostly black; very small lot of yellow.

Q. You were alongside the oil barge the next morning, weren't you?

A. Yes, sir.

Q. How far out of the water is her yellow beading?

A. I don't remember how high it was.

Q. Haven't you any knowledge how far out of the water that yellow beading stands?

A. I suppose about three feet.

Q. Then I wish you would explain to me how the yellow paint from that beading could be on the barge forward, where the barge is only six inches above the water.

A. I didn't say the yellow paint was there; I said the scow had yellow and bleak paint on her.

Q. You distinctly said yellow paint on her forward.

A. The black paint was forward on the scow, and yellow and black paint on the back or fender post.

Mr. C. E. S. WOOD: His testimony speaks for itself.

Q. I think the court will remember he said yel-

low and black forward.

COURT: The court so understood it.

Mr. C. E. S. WOOD: I would like to ask a few questions. I am only going to ask questions I think the court would want to know.

Questions by C. E. S. WOOD:

Captain Jordan, when you approached the Henderson and after having seen her lights for about a mile, as I understand it, the first passing signal was given at about half-a-mile apart, as I understand your testimony, and you saw her lights; and the channel at that point between Puget Island and the Oregon shore, is in a general way about half a mile wide, as I understand it. Are those statements I have made practically correct?

A. Something like that. I am not positive the distance, myself.

Q. Now, what is your theory yourself, Captain Jordan, as to what brought these boats together, under these circumstances, with ample room to pass?

A. My theory is that he got above the ranges without—I tried to tell this yesterday, and they stopped me.

Mr. MINOR: Go ahead.

Q. I know, but I want your own theory.

A. My theory is he told the man at the wheel to port, and the man used the Norwegian system which put her to port and put her above the ranges, and Captain Sullivan, standing way forward, in the eyes of

the ship, would not notice her swinging immediately. I know how that is. You cannot notice a vessel swinging immediately when right at the eyes. I think she got in the ranges; all the time, we going down, him coming up. When he found the mistake, he again called to the quartermaster, and the quartermaster did port. He was above the ranges and that brought the vessels together almost head on. That is my opinion; I don't know, of course, what he done.

Q. You think a mistake then of having thrown the wheel in the wrong direction, based on a misunderstanding of custom, couldn't have been discovered and corrected in half-a-mile?

A. I doubt very much in a big heavy vessel like that, no, sir. I doubt whether he could correct it in that space of time.

Q. How did your speed compare with his?

A. In slack water we were making about the same time, I think.

Q. You were going down with both ebb tide and current and he was coming up, and you have said, if I remember correctly, you were about six miles an hour. Relatively you were going twice as fast as he?

A. Well, about two-thirds; I think he was making about four miles and we were making about six.

Q. You testified before the Inspectors at your trial that you thought you were going twice as fast as he. Do you remember that?

A. No, I don't remember, but judging from the time they left and the position we were in, I think he

was making about four miles an hour, and we were making about six.

Q. How far would he have had, on your theory—I am working on your theory now—how far would he have had to work in on your course to have intercepted you? That is what would be the distance across the river from where you first saw him and where—I mean from where the signals were first exchanged to where he intercepted you? On the assumption that this mistake was made, this mistake of starboarding the helm?

A. I don't know as I understand your question right, Mr. Wood.

Q. You exchanged signals and you think at that time that a mistake was made and the oil barge starboarded her helm. Isn't that what you say?

A. That was my theory of it. I don't know, of course.

Q. I know. And how far would she have had to swung into the Puget Island shore on that mistaken helm until she crossed your course?

A. Well, it is not far from the Hunting Island ranges to the beach. She would not have to swing in very far.

Q. About how far?

A. And I think the collision took place about 200 feet off the ranges. She wouldn't have to go only about 250 feet inside the ranges to bring about that result, I don't think.

Q. This mistake occurred when you were half-a-

mile apart?

A. I know, but it takes—that boat is going ahead, coming up; I am going down. We are both coming together all the time.

Q. Which of your two flotillas would handle easier? Theirs or yours?

A. I think theirs would.

Q. I think you have already said yours was under control. Did you not so state?

A. Yes, sir.

Q. Refreshing my memory.

A. Yes, sir.

Q. Now, as a matter of fact the oil barge and the Henderson would have responded to the helm if they were going zero past the land—if they were just standing still with the shore, that current acting on her rudder would have changed her direction, wouldn't it?

A. Yes, after a time, it would. You got to give them time. It takes time to handle any boat—do any work.

Q. So she going up the river at that slow rate of speed and with all the additional force of going upstream, getting the current on her rudder, she would naturally have handled and been under better control than you, wouldn't she?

A. I don't know as she would because she didn't seem to steer good and they claim they did not steer good. Different pilots told me the same thing. That is all I know.

Mr. SNOW: I move to strike out his answer that pilots have told him the barge didn't steer well as hearsay.

Motion denied; exception taken.

Q. Now, relatively, you with these wide barges loaded with three thousand tons of stone and going down the river with that current wouldn't be as well under control and handle as easily as the oil barge coming up, would you?

A. No, they would not.

Q. Now, when you rounded this point of Puget Island where you saw the Henderson first, as I understand it, you swung around it under a port helm, and made something of a slide, as I understand it, out towards the Oregon shore. Is that correct?

A. Yes, sir, she would certainly drift some.

Q. Well, in rounding any point or putting any boat under helm that puts her on a curve; when you want to get the course again, you have to straighten her up.

A. Yes, sir.

Q. Wouldn't you have had to straighten up your flotilla there by putting your helm starboard for awhile?

A. If there had been nothing in sight of course I would have acted different. I would have straightened her up and let her go down on the ranges instead of trying to keep above them. I come down above as I generally come with the exception of meeting this fish boat. Of course I had to haul in a little

closer to Puget Island then.

Q. We have been over that. I don't want to take time, neither do I wish to repeat, but I would like to repeat my point. You come around the point on a port helm and on a swing. Now then if you didn't straighten up and get on your course, you commence to go broadside down the river, don't you?

A. She would naturally get straightened up herself; that is after she got above the ranges enough I would give starboard helm enough to straighten up and head straight down the ranges.

Q. Ordinarily and customarily, you would have straightened up on the starboard helm?

A. Yes, sir.

Q. But didn't that night?

A. No, sir, on account of wanting to work above the ranges as far as possible.

Q. And the consequence of that would be you would leave her swing, and she would go to a certain extent broadside, diagonally down the river?

A. Yes.

Q. Now, with your helm port over, and keeping it that way, failed to work in to the Puget Island shore, but went from 400 to 800 feet off; is that correct?

A. I couldn't say about 400 as I don't know how wide the channel is at that point.

Q. You went from close in to Puget Island shore to further away? You went from close in to further away, although you had your helm to port and part

of the time hard aport?

A. She has been working off from the point of Puget Island going down, yes, sir.

Q. Isn't it true you went further away than when you first rounded the point?

A. Yes, sir.

Q. On that particular night, and when you couldn't see Rugby Hole—you know what I mean—the shore or anything of that kind, isn't it possible under the circumstances you went closer to the Oregon shore than you think?

A. No, sir, I didn't because I could see the outline of Puget Island and could see Buby Light, and also this fisherman. Had been down there every night that season and always met fishermen there somewhere; I have a pretty good idea where they lay out and I know their boats, about the middle of Rugby light.

Q. You wouldn't know where that fisherman was in the river that night?

A. Not exactly but I know he wouldn't be within ten or fifteen feet of Rugby light.

Q. So you don't think there is any possibility you might carry down further to the Oregon shore?

A. No, sir, I do not. I am positive I got over half way across because of another mark I have, a hollow spot or low spot in the hill just below Rugby light, and when I head straight for that it takes me straight down between half way between Rugby and the point of Puget Island.

Q. When do you commence to use the range lights to steer by, off Hunting Island?

A. There is a trap in there on the lower end of Ostervolt seining ground; when I am abreast of that trap, I get on the ranges. At that time there was no trap in there, but I head for Skamokowa light until the ranges are about in line.

Q. So you don't really commence to use the ranges until you get pretty well down towards the lower point of Puget Island?

A. The ranges come on about half way down Puget Island, I think.

Q. You have been on the Henderson yourself?

A. I was on for a month or two. I am not sure how long.

Q. You know that her lights on the lower deck are way back in the engine room, don't you—small electric lights?

A. She has lights from one end to the other.

Q. All the way through?

A. Yes, sir.

Q. And lights up to the firebox?

A. Yes, sir.

Q. That is hooded?

A. I couldn't say as to that. I know Captain Smith sent me down several times to shut the gangway doors on account of the lights shining out and blinding him.

Q. Who were present when Captain Stayton had the conversation with you?

A. I don't remember who was there; there were several all about at the time, but I am not sure just as to who were. I think Captain Anderson was there. I am not positive about that, couldn't say; quite a crew on the boat at that time; all of our own crew; several of the Henderson, but just who was around that instant, I couldn't say.

Q. Which way would the Norwegian answering the helm throw the bow of the oil barge?

A. Under the port or starboard helm?

Q. Well, suppose that he got port helm, and answered it literally, that would be our starboard; how would it throw the bow of the oil barge?

A. If he was Norwegian and answered in Norwegian code—

A. I don't care anything about the Norwegian code.

Mr. MINOR: Let him answer it.

Q. I don't care anything about the Norwegian code, and I am going to have my question answered the way I put it. If it was obeyed, if the signal to port the helm was obeyed, under the Norwegian code, and the helm was really to our starboard, which way would the bow of the oil barge go?

A. Well, if he threw his helm to the starboard under the Norwegian code, he was answering it wrong.

Q. I want your theory. Your theory was if our port helm was answered literally, it would be the equivalent of our starboard. Wasn't that it?

A. Yes, sir.

Q. Which way would that throw the bow of the oil barge?

A. To port.

Q. And which way would that be in relation to the Puget Island shore?

A. Towards the Puget Island shore.

Q. And you think she continued to go some distance that way before he got her straightened up?

A. Yes, sir.

Q. Why wouldn't it shut out the green light—I mean why wouldn't it shut out the red light and show the green light?

A. Because we were both so close together that I was almost square across his bow at that time.

Q. You have said that occurred half a mile apart at the first whistle. If that threw him square across your bow, how do you have your theory of a head on collision?

A. When he found his mistake he put his helm port again and that brought her out and that certainly kept her lights in line with us.

Q. And yet almost on him at that time?

A. We were coming together all the time.

Mr. SNOW: I may want to call this witness a little later. I will not delay the trial now.

#### Redirect Examination.

Questions by Mr. MINOR:

Captain Jordan, you were asked to indicate your course by the compass, and you said that no two com-

passes were alike. Now, I wish you would explain to the court what you mean by that.

A. Well, there is local attraction on the compasses that vary on different boats; for instance the Kern steering Rugby Hole steers about due west, and the Samson is pointed northwest by west half west, which is half a point different. Not only that, boats running outside and have their compasses adjusted according to a standard compass before they leave port, and these the compasses are satisfactory to us for our boats on the river; we steer the course with them every trip and know that they will bring us out at these certain points by running on time.

Q. Now, Captain, you say that when you rounded the point of Puget Island, you estimated you were about 400 feet from the shore. Do I understand that that was an accurate statement of the distance, or just an estimate?

A. Only an estimate. Nobody can give that distance accurate there; on a dark night it is impossible to tell.

Q. And you also said that at the time of the collision, you thought you were about 700 or 800 feet—I don't remember which you said—from the Puget Island shore. Is that an accurate statement?

A. No, that is only approximate. I wouldn't give any of those distances accurate; nobody could do it.

Q. When Mr. Snow examined you, he used a scale, and based on that scale you made a little change in your course. I have ascertained from some one, I

believe from Mr. Guthrie, but I am not sure—Mr. Rolph,—at any rate I have ascertained from some one that that scale as he gave it to you was incorrect; that instead of being a thousand feet to the inch, it is a thousand feet to an inch-and-a-quarter. Now, that would also affect the course which you laid out on that map, wouldn't it, if that scale was wrong?

A. Why, of course it would bring the position further away from shore than what they would if had been where I guessed them.

Q. And if that scale instead of being a thousand feet to the inch was a thousand feet to the inch-and-a-quarter, it would make that much difference in the course you laid out, would it?

A. Yes, sir. When Mr. Snow cross-examined me, I went according to his scale and guessed 400 feet, but of course that guess of 400 feet from shore was only approximate. I couldn't tell whether I was four or five hundred feet, but the course was practically the same down along the land there.

Q. Now, Captain Jordan, on your examination before the Inspectors, it seemingly was assumed by all the parties that the width of the channel between Puget Island and the Oregon shore was about half-a-mile. From the measurement chart which I have had made since, I learn that—I call your attention to this chart which I have had measured by a government engineer in the government office down there It appears that at a point opposite or nearly opposite the big slough known as the Grove Slough, the dis-

tance across between shore and shore is 1500 feet.

A. From Grove Slough across to here?

Q. Yes, from the head of Grove Slough, just below the head of Grove Slough, just across to the point where you see the arrow is 1500 feet.

A. They told me yesterday 2500.

Q. Now, at the point, as nearly as I could have it located, where the collision took place—is that about where it took place? (indicating on claimant's exhibit "B".)

A. Yes, off that point.

Mr. ERSKINE WOOD: Off what point?

A. The cross marked here "A".

Q. From the point which you say is about opposite, on Puget Island shore, the point of collision, over to Joe's Fishery the measurements show the distance is about 2300 feet.

A. This old slat trap is where?

Q. There is Joe's Fishery.

A. That is what they call Joe's Fishery on the chart, marked here.

Q. Is about 2300 feet—it is about 2300 feet. Now, in view of that fact, Captain, would that bring your course nearer to or further away from the Puget Island shore?

A. Well, instead of being 1500 feet, it was 2300 across there; of course it would take me a little further out from Puget Island shore.

Q. A little further out from Puget Island shore?

A. Yes, sir.

Q. So your evidence was based on the distances as they were given to you, and which you assumed to be correct?

A. Yes, sir.

Mr. MINOR: I will offer this chart in evidence. Marked Claimant's Exhibit B.

Mr. MINOR: There are some other measurements on this chart, Mr. Snow, which were put on by the engineer down at the government office.

Q. Captain, do you remember that at one time there used to be a fish trap at the point of Puget Island shore that you rounded?

A. Well, a long time ago, there was an old trap abreast of that point. There is some old piling in there yet. I have tied up logs to them at different times.

Q. And do you remember that at one time there was a trap at the mouth of the slough north of Ostervolt's seining ground?

A. Yes, sir.

Q. Is any of that piling left?

A. Yes, sir.

Q. How far out does that piling extend at that point, do you remember?

A. No, I do not. The one north of Ostervolt Seining Ground?

Q. Yes.

A. No, I don't remember how far up they are.

Q. Now, while you don't know the distance that you were from shore with accuracy, I will ask you to

state whether you do know whether you were above or below the range of lights, Hunting Island range lights?

A. I was above them all the time.

COURT: That is not redirect.

Mr. MINOR: I merely want to show if he was there that would be still above the ranges.

Q. If, therefore, Captain, 800 feet from the Puget Island shore would reach out, at the point where the collision took place, as far as the Hunting Island lights, what do you say as to 800 feet being the correct distance, or not?

A. It is not correct, for I never got down on the ranges. I am positive of that.

Mr. MINOR: I will try, your Honor, not to go beyond redirect.

Q. Captain, in estimating the time,—in giving the time on which to round the point on hard aport helm, was that statement of time—do you intend that statement of time to be accurate?

A. No, sir.

Q. Or just an estimate?

A. No, sir, none of the distances or times, I couldn't give accurate for I had no means to mark them, nor never took the time down. I couldn't tell; it was only guess work.

Mr. SNOW: I give notice to the other side to produce the log of the Samson.

Q. Now, Captain in connection with the testimony which Mr. Wood read you, the testimony which you

gave on the trial of Charles Jordan before the inspectors, I call your attention to the following portions just preceding the testimony which Mr. Wood read: "Q. You say up here when you gave her a port helm, you were about a third of the distance across from Puget Island shore? A. Yes, sir. Q. So when you came down here and gave the order hard aport, why she was still about the same distance from shore? A. Yes, sir, that is what I said. Q. And you ran five or six minutes under that port helm? A. Yes, sir. Q. Hard over before the accident? A. Now, I wasn't running hard over all this time, you know. I told him to port. He had a port helm on her. Q. I am talking about when you gave the order hard aport; you said you were running under a port helm. A. Yes, sir." Did you so testify upon that examination?

A. Yes, sir.

Q. Captain, if upon your cross examination you said that there was both black and yellow paint upon the barge itself, I will ask you to state whether or not you intended to testify upon the hull of the barge itself?

A. Well, of course the fender post I considered a part of the barge; there was yellow paint and black paint on that, and black paint on the hull of the barge forward; that is the impression I intended to convey, but I never meant to say was yellow paint on the hull of the scow forward, because that is too low to reach the yellow mark on that scow. It was im-

possible. The scow was loaded too deep.

Witness excused.

HANS JENSEN, a witness called on behalf of the claimant, being first duly sworn, testified as follows:

Direct Examination.

Questions by Mr. MINOR:

Mr. Jensen, where do you reside?

A. Silverton, Oregon. Close to Silverton.

Q. What is your occupation?

A. At present?

Q. Yes, what at present?

A. Farmer.

Q. In what business were you engaged in the summer of 1911?

A. Marine engineer.

Q. On what vessel were you engaged at that time?

A. Tug Samson.

Q. How long did you pursue that occupation of marine engineer?

A. After that, do you mean?

Q. No, I mean altogether. How long did you pursue that occupation of marine engineer?

A. About six years.

Q. How long were you on the Tug Samson?

A. From—on her altogether about two-and-a-half years.

Q. Were you on the Tug Samson the night that she had the collision near Bugby Hole with the oil barge and the Henderson?

A. I was.

Q. Were you on duty that night?

A. Yes, sir.

Q. Now, I wish you would state where you were on the ship—on the boat, the Samson. Describe to the court where you were on the Samson.

A. At what time?

Q. At or about the time of the collision.

A. I was on the starting platform right in front of the levers, to handle the engine.

Q. Were you at that time in charge of the engine?

A. Yes, sir.

Q. Did you know anything of the collision until it took place?

A. No, sir.

Q. Did you get any bells at or just before the collision?

A. Yes, sir.

Q. How many bells did you get?

A. Four gongs and a jingle.

Q. What does that mean on the Samson?

A. From full speed ahead to full speed astern.

Q. Did you feel the collision?

A. Not the collision, no, sir.

Q. I say did you feel the shock at the time of the collision?

A. Very slightly.

Q. How long—did you obey those bells?

A. Yes, sir.

Q. How soon after the bells were given?

A. At once.

Q. Now, how long did you back?

A. I think about three-quarters of a minute.

Q. Is that an accurate statement or is it only an approximation?

A. That is just my judgment. I didn't have a watch at the time.

Q. Now, then, what other signal did you get and what was the next bell you got?

A. After I stopped?

Q. While you were backing what bell did you get?

A. I got a bell to stop the engine.

Q. Stop the engine?

A. Yes, sir.

Q. And you think you got that bell after you had been backing about three-quarters of a minute?

A. Yes, sir.

Q. Did you get any other bells after that?

A. I did.

Q. At what time did you get other bells?

A. I think about ten minutes after that.

Q. What bells were they?

A. Well, I don't remember that now exactly, but I think the first bell I got was to back.

Q. You think you got bells to back then?

A. Yes, sir.

Q. How many bells would that be?

A. That would be two gongs.

Q. Two gongs; and you think that was about ten minutes after you got the stop bell?

A. Yes, sir.

Q. Did you get any bell between the time you got the stop bell and the time you got the two gongs to back?

A. No.

Q. How long did you back at that time when you got the second backing bell?

A. I don't remember that.

Q. What bell did you get after that?

A. Well, I don't recollect what they were, but there were quite a number of bells given in then—back and go ahead.

Q. You don't remember those bells?

A. No, there were too many.

Q. At the time you got the second backing bell do you know how you were with reference to the scows that the Samson tows?

A. We were alongside some of them, I think.

Q. You think you were alongside?

A. Yes, sir.

Q. Now, did you see these rock barges when they were picked up the next morning?

A. Yes, sir.

Q. Where were they? Describe where they were as nearly as you can from their relation to the Puget Island shore and the Oregon shore.

A. Well, the two barges that were lashed together, I didn't pay particular attention to; those we picked up last; but the first barge we picked up was so far down I could see Cathlamet; I could look up Cathla-

met Channel.

Q. Could see Cathlamet?

A. Yes, sir.

Q. And how far was that barge from the Island shore?

A. About a barge length, I think.

Q. About how long is that barge?

Mr. SNOW: Oregon shore?

Mr. MINOR: I should have said Island shore; did you understand me to say Oregon shore or Island shore?

A. Island shore.

Q. You think she was about her own length?

A. Yes, sir.

Q. When you say Island shore, which shore do you mean?

A. Puget Island.

Q. You think about 150 feet long, you said, don't you?

A. Yes, sir.

Q. Where were the other two barges as nearly as you can locate them?

A. Well, I wouldn't undertake to locate those; they were further upstream, but I didn't pay any attention to where they were.

Q. Did you pay any attention to see how far away they were from the Puget Island shore?

A. No, sir.

Q. You don't know how far they were away?

A. No, sir.

Q. Have you got the log of the Samson with you?

A. No, sir, I have not.

Q. You kept it that night while you were on duty?

A. Yes, sir.

Q. I wish you would get it and bring it to me here.

Mr. SNOW: What is that?

Mr. MINOR: I asked him to get the log of the Samson and bring it. He was the engineer and kept it that night.

A. I am not on the boat now. I would have to ask the Chief Engineer for it.

Q. You would have to ask the engineer to get it for you?

A. Yes.

Q. What time of the night did you go on duty that night?

A. Twelve o'clock.

Q. Twelve o'clock, and you remain on duty until what time?

A. What is that?

Q. How long did you remain on duty—what hour?

A. Until six in the morning.

Q. Six the next morning?

A. Yes, sir.

Q. Who did you relieve when you went on duty?

A. Chief engineer.

Q. What is his name?

A. F. H. Goodell.

Q. F. H. what?

A. Goodell.

Q. You didn't see the collision, I understand?

A. No, sir.

Q. You didn't leave the engine room at that time?

A. I did after I got the stop—the bell to stop, after I had backed.

Q. But you didn't until after the accident was all over?

A. No.

COURT: That is simply stop backing; you said stopped the engine; you didn't start ahead. You just simply stopped the engine?

A. Just stopped the engine, yes, your Honor.

#### Cross Examination.

Questions by Mr. SNOW:

Mr. Jensen, do you know what time Jordan came on duty that night?

A. No, sir, I do not.

Q. You don't know then what officers came on duty or went up on the decks with you?

A. I know what is customary, yes, sir.

Q. What is customary, then?

A. The pilot goes on watch when I do.

Q. At twelve o'clock?

A. Yes, sir.

Q. Now do you remember giving any passing signals that night to any vessel?

A. Yes, sir.

Q. You remember that yourself, do you?

A. Yes, sir.

Q. Did you hear any whistles given by any other vessel than your own whistle, just before—some little time before the collision?

A. No, sir.

Q. You didn't hear then the passing whistle of the Henderson and her barge, and the answering whistle that you gave?

A. I didn't hear any whistles outside the Samson, because I was down in the engine room where there is too much noise to hear anything away from the boat.

Q. Do you remember the fact that the Samson blew one whistle some time before the collision?

A. Yes, sir.

Q. Did she blow any other whistle than the one whistle before the collision, the Samson?

A. I think she did.

Q. Are you positive of that?

A. Yes, sir.

Q. Now, before the collision did you get any other signals or bells from the pilot house—signals from the pilot house to blow any whistles?

A. I don't blow the whistle.

Q. Did you get any orders from the pilot as to the working of your engine before the collision?

A. Yes, sir.

Q. What was it?

A. From full speed ahead to full speed astern.

Q. Before the collision?

A. Yes, sir.

Q. Had you blown any second whistle before that?

A. I just told you I don't blow the whistle at all.

Q. Well, did you hear any second whistle from the Samson before that?

A. Yes.

Q. Then you didn't get any full speed astern orders until after the second whistle?

A. I don't think so.

.      Redirect Examination.

Q. You say that you heard more than one whistle blown from the Samson. I wish you would tell what whistles you did hear. I didn't know you heard any of them.

A. I heard one long blast and one short, or another long blast, but as to the time between them, I didn't pay any attention to that because the whistles are none of my business.

Q. And that is all the whistles you remember hearing from the Samson?

A. Yes, sir.

Witness excused.

FRANK H. GOODELL, a witness called on behalf of the claimant, being first duly sworn, testified as follows:

.      Direct Examination.

Questions by Mr. MINOR:

Mr. Goodell, where do you live?

A. At present I live in Portland. My home is Astoria.

Q. What is your business?

A. Marine engineer.

Q. How long have you pursued that occupation?

A. Do you mean since I have had a license?

Q. Yes. How long have you been engaged in that business?

A. Well, I couldn't state exactly. Somewhere between 21 and 23 years.

Q. Were you a marine engineer on the Samson at the time the collision took place between the Samson and her tows and the Henderson and her tow, oil barge 93?

A. Yes, sir.

Q. That I believe was the 22nd day of July, 1911.

A. I believe so, in the morning.

Q. Where were you? Were you on duty, I mean or not?

A. I was not.

Q. You were not. Where were you then? How long since you had been on duty?

A. I went off duty at twelve o'clock.

Q. Where did you go after you went off duty?

A. I went out on deck, had a little lunch, and finally went to bed.

Q. At the time the collision took place then, or about the time it took place, you were in bed?

A. About the time.

Q. Where was your room situated on the Sam-

son?

A. Aft on the upper deck.

Q. Aft on the upper deck?

A. Yes, sir.

Q. And which way does it open?

A. The door open forward.

Q. And which way does the door swing?

A. It swings from the starboard side; opens out on the port. Shuts the view off the port side.

Q. Swings from the starboard side to the port side?

A. Yes, sir.

Q. Now, I wish you would tell the court what you did and what you saw that night at the time—in regard to this accident.

A. Well, when I heard the bells from full speed to full speed astern, I jumped right out of bed; I went right out of the room, looked to see what was going on —what was the trouble, and I came right out of the room, facing the starboard side, that is facing the river, looking to the starboard. The door shut my view off the other way. I saw the shore and after I kind of located myself I turned around and looked the other way, and just as I started across the other way to look, I saw—the impact was just at that moment, but I saw the barge slide by.

Q. Which barge did you see slide by?

A. Well, the oil barge passed, or we passed it, I couldn't tell which; she went up.

Q. Now, did you see from where you were the

actual impact of the barges?

A. Did I see the impact?

Q. Did you see from where you were the actual impact of the barges?

A. No, sir.

Q. Could you have seen it if you had been looking?

A. No, sir, I don't think so.

Q. Did you hear any whistles about the time you got up or before that time?

A. Why, I heard them, yes, sir.

Q. What whistles did you hear?

A. Well, all I remember hearing is one whistle; then shortly afterwards I heard another one. I wouldn't say the time or distance apart.

Q. Did you hear the answers to these whistles?

A. No, sir.

Q. Now, I wish you would tell the court where you were on the Puget Island side when you came up and looked out and located yourself.

A. We was pretty close, I think.

Q. How far did you think you were away from the Puget Island shore?

A. I think I said at the examination 300 feet; something like that.

Q. How much?

A. About 300 feet, I think I said.

Q. That was your estimate?

A. That is only just approximate, yes, sir.

Q. Now, I wish you would look at this chart. Are

you familiar with the charts sometimes used on the river?

A. Well, I am not familiar with that.

Q. This is the chart—it is the same chart used at the time of your examination, and I therefore show you claimant's exhibit B. Point out on this map, on this chart, whereabouts on the Puget Island shore, or where you were off the Puget Island shore at the time you got up and located yourself. This is the foot of the island here.

A. I think we were right there. (Indicating.)

Q. We will make a mark there.

A. That is the slough, as I understand it, down at the lower end of the seining ground. (indicating on map.)

Q. Seining ground. I will mark that "1" and put your initials, "F. H. G."

Mr. MINOR: Witness marks a point which is indicated on claimant's exhibit B as "1".

Q. And how far did you say you thought you were from the shore at that time?

A. Well, I say, just only guessing at it, I suppose 300 feet; something like that. Maybe more.

Q. Did you look at the Washington shore afterwards?

A. At the Washington shore?

Q. I mean the Oregon shore afterwards?

A. Not at that time, no, sir.

Q. Did you later on, when you went across?

A. After we had been down below with the Hen-

derson, I did, yes, sir.

Q. You didn't while you were at that place?

A. No, sir.

Q. How far did you have to go from where you were lying asleep to get out on deck so you could locate yourself?

A. To get out on deck?

Q. Yes, so you could locate yourself.

A. Probably ten or twelve feet.

Q. I understood you to say that you got there before the impact came?

A. Yes, sir.

Q. Did you feel the impact?

A. I felt it, yes; we was about by.

Q. Now, I understood you to say that you saw the oil barge come by you when you were on the Samson, at that time?

A. Yes, sir.

Q. In what manner was she going by as to going by rapidly or otherwise?

A. Well, the two were passing quite rapidly, yes, sir.

Q. Quite rapidly?

A. Yes, sir.

Q. You couldn't tell though?

A. I had nothing to gauge by except just to see them slide by.

Q. Just saw them slide by?

A. Yes, sir.

Q. Did you see her after she passed you, the oil

barge?

A. I saw her the next morning, yes, sir.

Q. You didn't watch her after she passed you that night?

A. No, sir.

Q. After the oil barge went by you, do you remember where you went?

A. Yes, sir.

Q. Where did you go?

A. I went down into the engine room.

Q. What did you do when you got down to the engine room?

A. Why I walked right to the engine room and asked the assistant if everything was all right—if there was anything wrong in there.

Q. Then what did you do?

A. Then went out on deck again.

Q. What did you do after you got out on deck?

A. Well, I don't know what I did do just at that time. The next thing I remember of actually doing was casting off the starboard stern line.

Q. Did you have something to do with casting the starboard stern line off from the Samson?

A. I did, yes, sir.

Q. That line wasn't broken at that time?

A. What is that?

Q. That line was not broken. Where did that line reach?

A. Where did it reach?

Q. Yes, where did it reach?

A. It reached from the after starboard corner on the starboard barge to the after starboard quarter of the Samson.

Q. Of the Samson?

A. Yes, sir.

Q. Did you have anything to do with anchoring the rock barges?

A. No, sir.

Q. Did you hear them anchored?

A. I heard them anchor, yes, sir.

Q. Where were you from them when they were anchored?

A. When they were anchored?

Q. Yes, where were you from them?

A. I couldn't say where we were from them. We backed out from them when they anchored them; I didn't pay any attention.

Q. You were on the Samson?

A. Yes, sir.

Q. And you heard them anchored?

A. Yes, sir.

Q. Did you hear the oil barge anchored?

A. Well, I couldn't say that I did, no, sir.

Q. Did you hear the anchors on the oil barge when they were let go?

A. I don't think I did, because I went into the engine room at that time, and I wouldn't hear them.

Q. If the anchors of the oil barge were let go, you didn't hear them?

A. No, sir, I didn't hear them.

Q. Now, what about the stern line on the port barge of the Samson? Was that broken or not?

A. I think it was broken.

Q. After you loosed the stern line on the starboard barge of the Samson from the barge, what did the Samson do?

A. She backed out.

Q. From the barge?

A. From the barges.

Q. Do you remember whether she backed off before or after these barges were anchored?

A. Well, I wouldn't say as to that.

Q. When did you first see the Henderson?

A. When I first saw her is when they threw the search light on her.

Q. And where was she then?

A. Where was she?

Q. Yes.

A. She was off, I think, of our port bow, a short distance.

Q. A short distance off your port bow?

A. I think that is the location. I wouldn't be positive.

Q. Could you tell whether at that time you saw the rock barges of the Samson also—at the time you saw the Henderson?

A. No, I couldn't say. I was paying no attention to them.

Q. When you saw the Henderson could you tell what she was doing?

A. Well, I think—

Q. Whether she was backing or going forward, I mean.

A. No, sir, I don't think she was.

Q. Were the lights burning on the Henderson?

A. I think not.

Q. Did you have anything to do with putting a line on the Henderson from the Samson?

A. No, sir.

Q. Do you know anything about a line being put on her from the Samson?

A. Yes, sir.

Q. About how long after the collision do you think it was when that line was put on?

A. Why, I should judge in the neighborhood of ten minutes.

Q. Did you see where the Henderson finally sunk?

A. Yes, sir.

Q. When you got the line on her, was she at the place where she finally sunk?

A. No, sir.

Q. About how far was she from that place in your judgment at that time?

A. I couldn't say. I know we put a line on her, and backed there quite a little bit. I wouldn't say how far it dragged her. I would say six or seven hundred feet, I should think.

Mr. SNOW: That is dragged the Henderson six or seven hundred feet.

A. I should think so.

Q. Said he was backing with her. But how far did the Henderson, in your opinion, drift from the place of the accident?

A. Oh, I couldn't say how far it is across there.

Q. Can you give an estimate?

A. Well, it is across the channel kind of cater-cornered down the stream.

Q. Across the channel catercorner down the stream. Do you know where the rock barges were when you picked them up the next morning?

A. Yes, sir.

Q. I wish you would tell the court where they were, commencing first with the first barge you picked up—which was the first one you picked up?

A. We picked up No. 9 first.

Q. Where was she?

A. She was well down towards this sand bar, along the edge of that sand bar, the upper end of it.

Q. The sand bar at the foot of Puget Island?

A. Foot of Puget Island, yes, sir.

Q. How far was she from Puget Island? What would you judge?

A. Very close in.

Q. Approximate it in feet.

A. 200 feet possibly.

Q. Was she anchored then?

A. Yes, sir.

Q. Was that after daylight?

A. Yes, sir.

Q. Where were the other two barges when you

picked them up?

A. Oh, they were up above, probably six or eight hundred feet, something like that. I wouldn't say just how far.

Q. How far were they from the Puget Island shore?

A. They were probably 300 feet.

Q. About 300 feet?

A. Probably 300 feet, yes, sir. ..

Q. Were they anchored at that time?

A. Yes, sir.

Q. Did you see them picked up?

A. Yes, sir.

Q. Do you remember whether they were above or below the mouth of that little slough you say the accident happened around?

A. I think were just below the mouth of it.

Q. You think just below?

A. Or abreast of it. Somewhere right in there.

Q. Do you remember the order given to anchor the barges?

A. No, sir, I don't think I heard any orders. I may have.

Q. You didn't give the order yourself?

A. No, sir, I have nothing to do with that.

Q. Captain, are you acquainted with the currents of the river down at that point of the river?

A. Yes, sir.

Q. How does the current set along there?

A. Sets to the Oregon side.

Q. Sets toward the Oregon side?

A. Yes, sir.

Q. Now, how far down does it set toward the Oregon side? Say commencing up above Bugby light; to what point does it set off toward the Oregon side?

A. Down as far anyway, I think, as the lower end of Ostervolt's seining ground. Somewhere along there.

Q. And take the other side of the river, the Oregon side, do you know where Tenas Illihee Island is?

A. Yes, sir.

Q. How far does it set over towards the Oregon side as compared with the head of that island?

A. It sets right down on the sands that form the head of that island.

Q. On the sands that form the head of that island?

A. Yes, sir.

Q. From the point of the collision, Captain, if the barges, the rock barges had drifted with the current—

A. Does it make any difference, in calling me Captain? I am not Captain.

Mr. SNOW: I am glad for your modesty, Mr. Goodell.

Q. Well, Mr. Goodell, from the point where you locate the collision, if the rock barges had drifted straight on as they would down the current, in what direction would they have drifted?

A. You mean if torn loose up there some where?

Q. If torn loose and had no momentum at all.

A. They would drift over towards Tenas Illihee

Island.

Q. Towards Tenas Illihee Island?

A. Yes, sir.

Q. How far, in your judgment, would they drift above the point of that island or below the point of that island, upper point?

A. Well, from where I say the collision took place, they would have drifted—they wouldn't have hit the island, I don't think, but would have drifted well over that way.

Q. And how far do you think they would have drifted above or below the point of the island?

A. When got back below the point of the island would have set back towards the channel again—would have set away again. Towards the flat sein-ing ground there.

Q. Mr. Goodell, did you look at those barges after they were picked up?

A. Yes, sir.

Q. Which of them did you look at?

A. I looked at the port barge and the middle barge.

Q. Port barge and middle barge?

A. Yes, sir.

Q. I wish you would tell the court whether either of these barges were injured at that time.

A. Yes, sir, they were, both of them.

Q. Both injured?

A. Yes, sir.

Q. What injury did you find upon them?

A. Well, the port barge wasn't injured very much. The guard around the nose of her was turned up; broken off some and turned up. The middle barge, the bow of it was stove in, two planks broke, I think, and top hatch tore off. Looked like had been torn off by barge as it slid by.

Q. That is the middle barge?

A. Yes, sir.

Whereupon proceedings herein were adjourned until 1:30 p. m. Saturday, January 11th.

Saturday, January 11, 1913, 1:30 p. m.

Mr. SNOW: I understand that after today, it is the intention to refer this to an examiner.

COURT: I think in fairness to the claimant, the court should hear as much of the claimant's testimony as it heard of the libellant's, and as I have a jury case set at two o'clock in Tacoma, Monday afternoon, I will undertake to return here and hear further evidence on Tuesday, if we don't get through this afternoon, but will not undertake to hear any further testimony than Tuesday. If the case is not completed at that time, it will have to be referred.

Mr. SNOW: We want to get through this afternoon, as a matter of fact.

Mr. MINOR: I am afraid not. You allowed your engineer to go before I got through with him.

Mr. WOOD: It may be that I was partly responsible. I was talking on another point, and I said to him, "I don't believe I will use you," but I didn't in-

tend he should understand he was entirely excused.

F. H. GOODELL resumes the stand.

Direct Examination continued.

Questions by Mr. MINOR:

Mr. Goodell, I show you a book. Please state what this book is.

A. Engine room log book.

Q. Engine room log book of what steamer?

A. Tug "Samson."

Q. Turn to the date July 22, 1911.

A. Yes, sir.

Mr. MINOR: I offer the log book of July 22, 1911, in evidence.

Mr. SNOW: I object to the log book going in evidence, because it is not competent evidence on the part of the vessel. If there is anything in the log book that we want, and against the vessel, we may use it, but if there is anything in the log book in favor of the vessel, they can't use it, because it is hearsay evidence. I therefore object to it as incompetent.

COURT: Are you offering this on your own account or pursuant to demand?

Mr. MINOR: They demanded it and I want to offer it.

Mr. SNOW: I demanded to look at it, and if we want it, we will put it in.

COURT: The objection is sustained.

Q. Mr. Goodell, at the time court adjourned, you were telling us about an examination of the barges.

I understood you to say that the port barge of the Samson had a cut in it on the starboard side, and some timbers were broken on the port side. Is that correct?

A. I don't think I said that.

Q. Didn't you so describe it?

A. No, sir.

Q. Describe the injuries on the port barge?

A. I described them before dinner, but I didn't say anything about a cut on the bow, I think.

Q. Tell me again. I misunderstood you.

A. The bluff of the bow of the port barge was kind of rolled up from the guard, on the port bow. There was also a cut in the bow on the starboard side of the stem. There was also a cut in the bow on the starboard side of the stem.

Q. Now, what about any paint on that barge?

A. There was black paint all over the guard there, where it was rolled up.

Q. On the port bow?

A. Port bow, yes, sir.

Q. Did you describe the injury to the center barge?

A. Well, the center barge was broken in on the bow below the deck; the deck was kind of lifted and there was marks across the hatch. There is a hatch on the port bow and it tore that hatch back and splintered it up, and also I think tore off a chock.

Q. Did you observe these barges before? Had you observed these barges before?

A. Well, I observed them every time I towed

them, which is every third day. I don't go out and examine them; sometimes I walk over them; sometimes I don't.

Q. The last time you had seen them, how long was that before, you think?

A. I suppose I saw them the third day before that. They come down every third day, each tow.

Q. Were those marks on the tow at the time you saw them the other time?

A. No, sir.

Q. Could you tell from the paint that you saw on the barge what it came from?

A. Well, I naturally supposed that it came off that oil barge; there was no paint there before. I saw that we had been against what had paint on it.

Q. Do you remember when you looked toward the shore, when you got up whether you saw this slough that—you have said the collision took place just above a certain slough?

A. I don't understand you.

Q. I say when you got up and looked toward the Washington or Puget Island shore, you recognized where you were?

A. Yes, sir.

Q. You located the place of the collision just above the slough?

A. Yes, sir.

Q. Do you remember seeing the slough that night?

A. Yes, sir, what I took to be that slough.

Q. Did you observe, Mr. Goodell, what direction the Samson and her barges were pointed at that time?

A. Night of the collision, no, sir.

Q. Did you go over to the oil barge the next morning on the Samson?

A. On the Samson, yes.

Q. Did you examine the oil barge the next morning?

A. I did not.

Q. Did you notice where anchored?

A. I noticed where anchored, yes.

Q. Could you tell how much chain she had out?

A. No, sir, I paid no attention to that.

Q. Mr. Goodell, have you had much experience on this river?

A. I have been going up and down towing for about—been seventeen years since I first started.

Q. What kind of vessels have you towed?

A. Have towed log rafts, boom sticks, these barges.

Q. Ocean going vessels?

A. I don't know as I have ever towed any ocean going vessels going up the river, no, sir.

Q. Have you towed them going down the river?

A. No, sir. I have towed them in from sea.

Q. Towed them in from sea?

A. From sea to abreast Astoria some where. Anchored them there.

Q. From your experience in towing vessels, can you tell about how far a vessel which you are towing

will drift to be cut loose from the tow boat?

A. Well, I wouldn't like to state how far in feet or anything, but they will drift a long ways.

Q. You know where the oil barge was anchored in the morning?

A. Yes, sir.

Q. And you know where the collision took place?

A. Yes, sir.

Q. Now, from your experience in towing vessels, what is your best judgment as to whether the oil barge would drift from the point of the collision to where she was anchored the next morning?

A. I think she would, yes, sir, easily.

Q. From your experience in towing vessels, do you think she would have drifted any further than that if her anchors hadn't stopped her?

A. Well, I don't know. I don't know just how far that is. If she had been going straight ahead she might have, but if she was drifting quartering across the current, she might have been going sideways, and not went so far straight up; I don't know about that.

Q. She was drawing about  $20\frac{1}{2}$  feet of water, and the evidence is there was a strong ebb tide. Look at the direction in which she drifted on the chart there in front of you, Claimant's Exhibit B, and state in your judgment,—it is also in evidence that she had her helm hard aport at the time she broke loose from the Henderson. Now, if she had her helm hard aport at that time, was drawing about  $20\frac{1}{2}$  feet of water, was about 280 feet long and about 45 feet

beam, carried somewhere between twenty-four and thirty thousand barrels of oil, and there was an ebb tide, such a tide as there was that night, to what point, in your judgment, would she have drifted from the point of collision?

A. I think she would have drifted nearly straight across if they had their helm hard aport, and had been that way for any length of time at all, so she had started to swing.

Q. How far, in your judgment, would she have gone?

A. Well, I think that a vessel like that would drift, before it would stop altogether, nearly half-a-mile.

Q. Half-a-mile?

A. Yes, sir.

Q. Mr. Goodell, do you know what lights the Samson carried that night?

A. Yes, sir, I know what she was supposed to carry; what they always carry.

Q. From what place are those lights put at?

A. Put at?

Q. Describe the lights.

A. Well, they are electric lights. Red light on the port side and green light on the starboard side.

Q. And how are those lights operated—from what place?

A. There is a switch in the engine room and also a switch for each light in the pilot house.

Q. Do you remember whether you noticed these lights that night? Did you notice the lights of the

Samson that night?

A. I know our switches were on in the engine room, always are.

'Q. Do you know what conditions the lights were?

A. They were in good shape, always are.

Q. Come down here a moment, will you. It is claimed by the Libellant that the collision took place at this point, X here, (Libellant's Exhibit 1). You notice the point X?

A. Yes, sir.

Q. Now, if the collision took place at that point, could in your judgment the rock barges have drifted to the point where you saw them anchored the next morning?

A. No, sir, I don't think would have drifted that far.

Q. From that point of collision as claimed by libellant, where does—which way does the current set?

A. Down this way. (Indicating.)

Q. That is towards—?

A. Prairie Channel.

Q. Towards Prairie Channel?

A. Yes.

Q. It is in evidence that one of the rock barges drifted and was found somewhere about the point of Puget Island.

A. Yes, sir.

'Q. Now, if the collision had taken place at the point to which your attention is called, which is the point at which the libellant claims the collision oc-

curred, in your judgment could that rock barge No. 9 have drifted to the point where you found it anchored the next morning?

A. No, sir, I don't think it could.

Q. In what direction would it have drifted from the collision?

A. From this cross here, it would have drifted off in this direction, somewhere. (Indicating.)

Q. That is down towards the point—

A. Of Tenas Illihee Island.

Q. (Continuing) of Tenas Illihee Island. If the collision had taken place at that place, Mr. Goodell, where in your judgment would the oil barge have been found the next morning?

A. Been found further up on the bluff here.

Q. Further up on the bluff?

A. Yes.

Q. And if she were going under the helm hard aground at that time, where, in your judgment, would she have been?

A. She wouldn't have drifted so far up; would have been over close to the bluff; as close as could get. If that far up, she would have been as much further up as she drifted from where I say the collision was.

Q. Mr. Goodell, it is in evidence here and is claimed by the libellant that at the time the Samson was sighted by the oil barge, she was down off the point which I show you here.

A. Yes.

Q. Witness's attention is called to Point B on Libellant's Exhibit 1. And that at that time, the oil barge was at a point X. Witness's attention is called to the point where the oil barge is supposed to have been. Now, Mr. Goodell, if the location of the two vessels was as claimed by the libellant at the time that the two vessels came in sight, what light of the Samson would the oil barge have seen?

A. I should think she couldn't see nothing but the green light.

Q. Nothing but the green light. Now, if the Samson continued in that course from that point to the point of collision, as claimed by libellant, and the oil barge had gone in this direction—(indicating)

Mr. ERSKINE WOOD: That isn't libellant's claim.

Q. I understand; in this direction, but with a curve—Understand?

A. Yes.

Q. This direction, but with a curve as claimed by libellant, what light on the Samson could the oil barge have seen during that course?

A. Green light.

Q. Any other light?

A. No, sir, I don't think she could except head lights.

Q. If that were the case, what lights of the oil barge and Henderson could the Samson have seen?

A. The red light.

Q. Could she have seen any other light, in your

judgment?

A. I don't think so. Not if she was holding that course, she couldn't.

Q. If, on the other hand, Captain, the oil barge was at or near a point where he claims she was at the time she first sighted the Samson, and the Samson is at the point where she claims she was at the time when she first sighted her, and the collision took place at the point which you claim it took place, which is, I believe, just below this little slough here about two or three or four hundred feet from shore, what lights would have been visible from those boats?

A. I think both lights would have been visible.

Q. Both lights.

#### Cross Examination.

Questions by Mr. SNOW:

How long have you been a marine engineer, Mr. Goodell?

A. I couldn't say exactly. Some where between 21 and 23 years.

Q. How old a man are you?

A. 44 years old, past.

Q. And been running an engine on a boat all those years?

A. Yes, sir, practically.

Q. As chief engineer, or as assistant, or what?

A. Chief engineer all except probably one year.

Q. Then you began rather early in life?

A. Yes, sir, I have been steamboating, as far as

that is concerned, 27 years.

Q. Speaking about your experience as a marine engineer, you began at once as chief engineer of a vessel, did you?

A. No, sir, my first license was a chief engineer's license.

Q. Prior to that, what were you doing?

A. I was firing.

Q. How long have you been firing?

A. Two or three years.

Q. Two or three years?

A. Yes, sir.

Q. And then during your period of firing, you acquired whatever knowledge you did acquire of engines and marine engines, so as to take out chief engineer's license as a marine engineer?

A. Not altogether, no, sir. I have worked around the shop some.

Q. On shore?

A. Yes, sir.

Q. What were you doing on shore in the shops? What was your work in the shops?

A. Not before I got a license, I didn't work in the shops, no, sir.

Q. After you got a license did you work in the shop?

A. Yes, sir.

Q. How much of your time, now, did you spend in the shop, then?

A. Spent two or three months.

Q. Spent two or three months in the shop in Portland?

A. No, sir.

Q. Where?

A. Astoria.

Q. What sort of a shop is it? What is it?

A. Astoria Iron Works.

Q. Have you ever been a master or pilot of a vessel?

A. No, sir.

Q. Have you ever been mate on a vessel?

A. No, sir.

Q. Your duties in steam boating have consisted entirely in the engine room?

A. Yes, sir.

Q. And you have had no duties outside on the river to give you any information of the navigation of the vessel?

A. Not any more than I would naturally learn, no, sir.

Q. As an engineer. That is as you would naturally learn as an engineer?

A. Yes, sir.

Q. Now, what time did you go on duty that night?

A. Six o'clock.

Q. And you went off duty at what time?

A. Twelve o'clock.

Q. Two?

A. Twelve o'clock.

Q. Where were you when you came on duty at

six?

A. Well, I couldn't say; down around Astoria, somewhere.

Q. And you came up the river, meet these barges and hook on to them, and go down the river?

A. Yes, sir.

Q. Were you on duty when you hooked on to the barges?

A. Yes, sir.

Q. Where did you hook on to the barges?

A. I think it was up somewhere between Stella and Maygers.

Q. Do your duties charge you with any duty whatever as to the lashing of these barges to the Samson?

A. No, sir.

Q. Then you went off duty at twelve o'clock?

A. Yes, sir.

Q. Where was your vessel at twelve o'clock?

A. I don't remember where we were at twelve o'clock.

Q. You were succeeded then by the assistant engineer who testified this morning?

A. Yes, sir.

Q. You were asleep at the time of the collision or at the time you heard the jingle of bells?

A. Yes, sir. I wasn't asleep. I was in bed. I wasn't what you would call asleep. I was roused.

Q. Had you been asleep between twelve o'clock and one-forty?

A. A few minutes, yes.

Q. When had you been to bed prior to that time to sleep any?

A. All the afternoon.

Q. Then you went off duty at twelve o'clock?

A. Yes, sir.

Q. And you had dropped to sleep before the jingle of bells that you spoke of—the reverse or backing signals were given?

A. Yes, sir.

Q. You said when the backing signals were given, when you heard them, you jumped up?

A. Yes, sir.

Q. Did you dress?

A. No, sir.

Q. Now your bunk or berth was not on the deck of the engine room, was it?

A. No, sir.

Q. On the deck above?

A. Yes, sir.

Q. Now, did you go out in your night clothes, or whatever you wear?

A. I came out with my underclothes.

Q. In your underclothes. Now, how far did you come out before you got on deck where you could see?

A. Ten or twelve feet, something like that.

Q. Ten or twelve feet?

A. Yes, sir.

Q. That is where you were when you noticed

where you were?

A. Yes, sir.

Q. Then what did you do?

A. When? After I noticed where I was?

Q. Yes.

A. I turned around and looked at the port side.

Q. And then what?

A. After that, I went down to the engine room.

Q. Still undressed?

A. Yes, sir.

Q. Did you dress yourself that night?

A. Yes, sir.

Q. When?

A. Some time before we got down to the Henderson, or during the time we were getting them aboard. Some time along then, I couldn't say just when.

Q. You went to your room and dressed yourself?

A. Not entirely; I put on pants and shoes.

Q. Meantime, your assistant engineer was at the engine, working the movements of the engine, as directed by the pilot?

A. Yes.

Q. Now, I show you a chart of the river, Mr. Goodell, and I would like you to locate on this chart, please, where you understand this accident happened, the point of Puget Island, where you run going into Bugby Hole, all as shown on this chart. The lower point of Puget Island is as shown on the chart where I mark it out with my finger. The corner of Tenas

Illihee Island is as shown here on the chart.

A. Yes, sir.

Q. The Clifton Channel works off in this direction; the main channel of the river is down here; here is Cathlamet Slough. Now, where did you understand this collision took place?

A. Is this supposed to represent the slough below Ostervolt's seining ground?

Q. Here is one slough called Grove Slough, here is another little slough and here is another little slough. What those sloughs, are, I don't know, but you tell me, as near as you can, with reference to the point of the bluff there, the Oregon shore, and the shore line of Puget Island, where the accident took place; remember that this chart is built on a scale of approximately a thousand feet to an inch and a quarter.

A. If this is the slough at the lower end of the seining ground down there, the collision was right off here; right off possibly the upper edge of that slough; abreast that slough.

Q. Abreast of this slough here?

A. If that is the slough; I don't know. I don't know as I ever saw a chart of the river marked the same as that is.

Q. This is an exact reproduction of the chart of the river used by rivermen, except on a larger scale. Now, the slough I am pointing at now, that is Grove Slough I point at; that we all concede. Now, with reference to this Grove Slough, and you know, by the

way, where that Hunt's Mill point is, on the Oregon shore, near the bluff?

A. Hunt's Mill point, yes if that is what you call it, I don't hear it called that on the river.

Q. You never heard it called that?

A. I don't say never did; it is not commonly called that; not called any point except the bluff at Bugby.

Q. You know what I mean, don't you, by Hunt's Mill point?

A. Yes, sir.

Q. Now, then the Hunt's Mill point is located on this chart at this point which I point out. Here is Grove Slough; here is the lower end of Puget Island; here is Tenas Ilihee Island. Now, you tell me where that collision took place from your point of view. Remember that this chart is on a scale of a thousand feet to an inch and a quarter; now that is practically 800 feet to the inch.

A. If this is the slough, I say—

Q. No—

Mr. MINOR: Let him answer. He has a right to answer.

A. That is where I think it is; right off the slough, here someplace. I am not answering about distances, for I don't know about the distance.

Q. It didn't happen near Grove Slough then?

A. No, sir.

Q. The slough you saw when you got up and went out from your berth in your underclothes, you are sure was not Grove Slough?

A. Yes, sir.

Q. But did you see a slough there. Any piling near that slough you saw?

A. Yes, sir, kind of old dam, something in the slough there.

Q. Now, then assuming that this chart is correct as to the scale, that is 800 feet to the inch, how near to the Oregon shore did that collision take place, and locate it by a course on the map.

Mr. MINOR: How near did it take place, first.

A. To the Oregon shore?

Q. To Puget Island shore I mean. You say it occurred near the Puget Island shore.

Mr. ERSKINE WOOD: The scale of the map is 1000 feet to 1-3/16 inches.

Q. That is, upon the basis of 800 feet to an inch, where did the collision take place?

A. 800 feet to the inch?

Q. Yes.

A. I said it took place 300 feet off there, if I remember. This is supposed to be the shore line?

Q. Yes, that large line is supposed to be the shore line.

A. 1000 feet to an inch and three-sixteenths.

Q. That is practically 800 feet to the inch.

A. About in there. I suppose it was further off. I was only guessing at that 300 feet when I said it; probably a good deal off from the scale of it on that map.

Q. She was further off shore than this point?

A. Is this brush line or what?

Q. That is shore line.

A. The shore line is sometimes 100 feet further in shore than at other times.

Q. You give as near as you can.

A. I do—I mark it here.

Q. That is the point?

A. I don't know whether that is high water mark or low water mark or what it is.

Q. Show that mark on here.

A. That is where I claim it was, that is if this is the slough I mean. I don't know whether that is the slough or not.

Q. Suppose this is the slough you saw there. Is it down in here, you say, then?

A. No, sir, couldn't have been that far down.

Q. Then could it have been up by Grove Slough?

A. No, sir.

Q. Then your idea is that it was at this cross mark that has been placed here, is it?

A. Yes, sir.

Q. I mark that point with the letter "A" and mark it on the map "Goodell location of collision." (On Standard Oil Exhibit 1). Now, where was the oil barge located the next morning, when you saw her anchored? How far was the barge from the Oregon shore, in the first place?

A. Well, she was within 300 feet.

Q. Within 300 feet?

A. Yes, sir.

Q. Now, locate the place of anchorage of the barge.

A. That is Hunt's Mill point; is that the turning point of the bluff there?

Q. I believe it is, yes.

A. There is no fish trap or anything marked here, is there?

Mr. MINOR: None marked there.

Q. Wait now, we can find a mark. The old fish trap you spoke of is below Hunt's Mill point?

A. Yes, sir.

Q. How far below Hunt's Mill point is the old fish trap?

A. I don't know as I understand what you mean by Hunt's Mill point. It is not generally spoken of along the river there, and point I know of, as Hunt's Mill point.

Q. I understood you to say—

A. I possibly have heard of it but it is not called that as a usual thing.

Q. What is it called?

A. There is a point up in the Bugby Hole there called Bugby Light; below that is called the bluff of Bugby Hole; I don't know anything about Mill Point.

Q. On the bluff below Bugby Hole, locate where the barge was as near as you can; where it was the next morning when you found her at anchor.

A. Right below the bluff, tailing down towards this old fish trap; tailing into Prairie Channel.

Q. Tailing in—you mean her stern down?

A. Her stern in, yes, sir.

Q. Head up stream?

A. Yes, sir, head off in this direction. If this is the bluff point here, she was anchored right here some place.

Q. 300 feet?

A. About 300 feet I think.

Q. Now, I mark that point "B—point where Goodell saw oil barge anchored next morning." Now, suppose that the Henderson and the oil barge were coming straight up to the point of collision, so that her red and green lights could be seen by the Samson coming down to the point of collision, and the collision had been made head on, where would the oil barge have drifted and where would the Henderson have drifted?

A. If the collision was head on—

Q. Where would the oil barge have drifted?

A. Well, she would have drifted practically to the same place she did.

Q. That is, she was coming up the river.

A. With her helm hard aport.

Q. No, her helm not hard aport. She was coming up the river and both lights visible to the Samson coming down the river, and the collision took place; where would she have drifted?

A. Drifted straight on up the river.

Q. Drifted straight on up the river?

A. Not straight; drifted over this way some on account of the current there.

Q. You said you had no experience towing ocean steamer, as I understand it?

A. Up the river alongside of them as they were towing, I haven't, no, sir.

Q. And have had no experience towing ocean steamers down the river?

A. Not in that way, no, sir.

Q. Not alongside the tow.

A. I have been alongside the tow.

Q. I mean never towed alongside the tow.

A. Yes, sir, down in the lower harbor.

Q. I mean on this river?

A. No, sir.

Q. And you give it as your opinion that if the oil barge and the Henderson had been coming up some little time under port helm, and the collision took place at the point of collision, she would have drifted to where you found her anchored?

A. Yes, sir.

Q. How long a time must she have been going, about, under port helm in order to make the drift there?

A. I couldn't say as to that. I don't know how much the boat was swung or anything.

Q. You gave us as your opinion, Mr. Goodell, that the oil barge coming up under a port helm for some little time.

A. I never mentioned any time. I didn't say anything about some little time.

Q. Suppose the helm was put hard aport just ten

or twenty seconds before the collision and then the collision had taken place.

A. I couldn't tell you, because I don't know how quick she swings. Some vessels that way wouldn't start to swing at all until ten or twenty seconds.

Q. That is right. I believe you. Now, what did you mean, in answer to counsel, that if the vessel had been coming up the river under port helm for some little time, she would have drifted for half a mile? How long a time must she have been under port helm to make that drift?

A. I didn't mention—I didn't intend to mention anything about how far she would drift with port helm, or starboard helm, or helm midships. I was testifying in my estimation a vessel like that would drift, if cut loose from that tow, as the question was put to me, as I understood it.

Q. What did you understand the question put to you? You put the question as you understood it. You were asked what question?

A. I think I was asked my estimate of how far that barge or a vessel drawing that much water and that heft, would drift after she was cut loose from the tow.

Q. Then you didn't understand that the helm under which the vessel may have been travelling was given to you, is that it?

A. It wouldn't make much difference whether the helm was one way or the other, in the distance she would drift.

Q. Suppose she was traveling under a starboard helm, and making towards the Puget Island shore and the collision took place, would she have drifted over to the point where you found her the next morning?

A. No, sir, if under a starboard helm, she wouldn't have drifted quite so far, because holding against the current all the time.

Q. Would she have drifted anywhere near where you found her the next morning?

A. With starboard helm?

Q. Yes.

A. She would have set over to the side; I wouldn't say would drift over there; the current would naturally set her there.

Q. Do you mean to say that the current from a point over opposite the slough—from where the accident took place, sets towards the Oregon shore and toward Clifton Channel?

A. Yes, sir.

Q. Don't set down the river then?

A. Some sets down there, yes.

Q. The current generally follows the larger volume of water, down the river, don't it?

A. Most of it probably does, yes sir, but you must remember there is a current comes out of all these sloughs. On all ebb tide and freshet generally the current sets right across for a certain distance, then would have a tendency to split.

Q. Was there any current from these sloughs that

night?

A. I guess so; always is.

Q. You tell me there was?

A. Yes, sir, certainly was.

Q. And that current would set that vessel how far from the Oregon shore, if just left to drift there, no helm at all, but left without power—where would she drift?

A. Drift down to that point of Tenas Illihee Island.

Q. Drift down there?

A. Yes, sir.

Q. Then you say, do you, Mr. Goodell, that in your opinion, the accident happening over abreast of what you call this slough, that the barge drifted up stream a little?

A. Yes, sir.

Q. And across to where you found her the next morning?

A. Yes. That is quite a ways up stream.

Q. How much upstream now, has she got to go to get to that position?

A. Well, she has to drift from where the collision was to where the barge was anchored, which is, I should judge, between a quarter and a half of mile, over a quarter of a mile.

Q. Upstream?

A. Yes, sir.

Q. And how far across the river has she got to drift?

A. Well, from the Washington side of the channel over to this, 300 or 400 feet into the bluff.

Q. Approximately there is 1600 feet from the point of collision over to where you have located the barge the next morning, that she would have to drift on a straight course, and she has drifted up approximately 500 feet.

Mr. MINOR: It looks to me as if you had her drift down the river, but I don't care.

Q. Well, we will term it up for you, Mr. Minor. She has to drift up stream how far, and approximately how far across the river, according to this chart?

A. From my judgement the next morning I thought she was about a quarter of a mile, or something like that, upstream and up on this side. Now, the distance up there, I don't know.

Q. A quarter of a mile upstream from where the accident took place?

A. Yes, sir.

Q. And the distance up the river?

A. All the distance over from where I say she was anchored.

Q. Assuming she was travelling on a port helm all this while, wouldn't she have turned down below where you found her, and been way below where you found her the next morning?

A. I couldn't tell you. I don't know whether under port helm or not.

Q. Assuming she was under port helm all the while, a hard aport helm from the time the collision

took place, regardless of when the port helm was applied; there is a dispute between witnesses on that question; now where would she have drifted with hard aport helm from the time of the accident? She has no power, and nothing to move her except her own drift.

A. She possibly would have drifted a little below that, possibly. The port helm I don't think would amount to anything on her, unless she was carrying it under her. I don't know whether she was or not.

Q. But if she was coming straight up the stream with both lights visible, and Mr. Jordan says he saw both lights at the time of the collision, indicating a head on collision, you think then that the moment she broke away, her barge would drift up stream and over to this point?

A. Yes, sir.

Mr. SNOW: I want this map marked as Libellant's Exhibit.

Mr. MINOR: Are you appearing for the Libellant, Mr. Snow?

Mr. SNOW: No, sir. I am appearing for the Standard Oil Company. Have it marked Standard Oil Exhibit.

Map on which Mr. Goodell has been examined, marked "Standard Oil Company's Exhibit 1."

Q. Where were the rock barges, the next morning?

A. Two about in here somewhere, off this slough here. I wouldn't be exact about it at all. The other

was possibly 800 or a thousand feet below.

Q. There is where the two barges were?

A. About three or four hundred feet over.

Q. What?

A. About 300 feet over; three or four hundred, something like that.

Q. Above the little slough?

A. I wouldn't say above; approximately the mouth of that little slough.

Q. Well, if that isn't right, you put it on yourself.

A. Right here. (Witness indicates on Standard Oil Exhibit.)

Q. Now, there is two of them there?

A. Yes, sir.

Q. We make two crosses. Mark that "Two stone barges at anchor—Goodell." Mark the other barge.

A. (Marking) A thousand feet below that; 800 or a thousand feet.

Q. I have marked that point "D, one stone barge at anchor—Goodell."

Q. Now, Mr. Goodell, you say that the Samson hauled the Henderson 700 feet after that wreck?

A. In the neighborhood of that. I wouldn't say exactly how far she hauled her; was paying no attention to how far was working her over to that point.

Q. Was it any part of your duty to affix the line to her or work the vessel or determine what should be done with the vessel?

A. No, sir.

Q. Then you don't really know whether she hauled

700 feet or seven feet, do you?

A. I was standing watching all the time, sir.

Q. Mr. Jordan in his testimony says he didn't haul her any distance. Is his judgement better than yours as to what was done?

A. All I know is what was done by the boat.

Q. You say she was hauled some 700 feet?

A. I should judge that far, yes, sir.

Q. Where did you finally leave the Henderson then after the line was let go you had fastened to the Henderson?

A. Right over here at this point, Tenas Illihee, the sand.

Q. Locate that point.

A. This is the point of Tenas Illihee. Well, right off here some where (marks) in the neighborhood there.

Q. Well, if that isn't right, as near as you can tell, I want you to change it. I want you to be satisfied yourself where that vessel was—the place where the Henderson was left by the Samson.

A. Yes, sir.

Q. Now, from what point did you drag her 700 feet?

A. Well, I don't know exactly where it was we took hold of her. She was drifting off out in here some where; we picked her up; I couldn't tell you where it was we picked her up at all. I don't know where it was; paid no attention to where we was picking her up.

Q. Can't you give me an approximate idea of where you picked her up and dragged her down to this point?

A. According to that picked her up 700 feet over here.

Q. Take your scale.

A. I am not marking any scales. I am guessing at all these distances.

Q. You are guessing then?

A. Here was—

Q. Wait a minute. You are guesing at the distance from the shore where the collision took place?

A. I said in my judgement that was the place.

Q. You are guessing where you found the barges anchored, are you?

A. I am going on my judgement where it was.

Q. Then give us a guess where you picked up the Henderson and dragged her to this point "E".

A. We took hold of her, then out in here some place.

Q. I have marked as point "E", the place where the Henderson was left by the Samson. I have marked also, Mr. Goodell, and see if this is correct, as point "F", the place where the Samson took hold of the Henderson, from which point she was dragged to point "E". Is that correct?

A. Yes, sir.

Q. Now, you say she dragged from point "F" to point "E". How did you drag her over to this point of the island?

A. We had a line out from our port quarter and was backing on her.

Q. Was backing on her?

A. Yes, sir.

Q. Pulling her upstream?

A. Yes, sir. I wouldn't say pulling her much; pulling her over this way all the time.

Q. Pulling over this way?

A. Yes, sir.

Q. Where was your vessel located so you could give that pull on her to pull her to Tenas Illihee?

A. The line was on one of her quarters; I don't know what cavel.

Q. Were you above or below or between this point of Tenas Illihee Island and the point "F"?

A. I don't know just how.

Q. You dragged her from point "F" to point "E"?

A. Yes, sir.

Q. How did you drag from Point "F" to "E"? Were you between the point of Tenas Illihee Island and point "F"?

A. I couldn't say how we laid out there. I paid no attention to that. I know we had a line on her and pulled her over that way.

Q. How can you drag her there unless you are between the point of Tenas Illihee Island and the point "F"? How can you drag her over there unless you are between that point of the island and the point "F"?

A. You could go around the other end and push her in if you had to.

Q. Did you push her?

A. No, sir. I don't know whether we pushed her. We was hauling from our quarter to her quarter. Part of the time worked ahead and part of the time astern of her.

Q. How far were you from her? Were you close by her?

A. I don't know what you'd call close. We was up the length of the line, breast line; probably about 30 feet, something like that; maybe nose up against her, close to her.

Q. Did they nose up against her so as to push her over there?

A. They worked ahead on her after they got there. I don't know. I didn't go out and look over the stem to see whether the nose up against the Henderson.

Q. Where were you when this backing was going on?

A. I was around the boat there.

Q. Supervising the backing?

A. No, sir.

Q. Making suggestions about what to do?

A. No, sir.

Q. Didn't you hear some discussion between Captain Jordan and some of the officers of the Henderson about the propriety of trying to move that vessel with that line?

A. I did not.

Q. Pulling her in two?

A. I did not.

Q. Didn't you hear some suggestion about the vessel probably turning over, and the line being cut and being gone?

A. I heard something about getting the line fast on her and couldn't get it off, if we put the big line on.

Q. How big a line did you then have on her?

A. I couldn't say as to that; either the head line or stern line; probably 7-8 or maybe 5-8 line.

Q. And the big line you were speaking of was what sort of a line?

A. That is our tow line; that is on the towing engine, probably 2½" double.

Q. You didn't have then the big tow line on the vessel?

A. No, sir, we don't use that on the river.

Q. They were talking about putting that line on that vessel?

A. Yes, sir.

Q. They didn't get it on?

A. They didn't try to.

Q. But did they get a smaller line on her?

A. Yes, sir.

Q. Now, Goodell, do you wish to be understood as swearing that the Samson hauled that vessel 700 feet, or any number of feet whatever, before they finally let her go?

A. Yes, sir.

Q. Then Captain Jordan's testimony is untrue, is it?

A. I don't know anything about it.

Q. Well, it must be untrue if your statement is correct. He says he didn't move her.

A. I say that we had—was on there pulling her all that time. I never looked at no point on shore to see whether that vessel moved or not; that is what we were trying to do.

Q. The truth is, Mr. Goodell, you don't know anything about whether you moved a foot or 700 feet, do you?

A. I know that we had a line on, and what we was pulling for, and if she wasn't aground, she moved.

Q. She was aground, then?

A. She was aground, you say?

Q. Wasn't she aground at 18 feet of water?

A. Yes, aground at 18 feet.

Q. That is very close to the point where you say you picked her up.

A. Then we hauled her in there, yes.

Q. Then you didn't move her, but just hauled on her?

A. Yes, sir. If going on this distance, and this feet of water in here. I am not going on the water, I am going on my judgement from the shore line you have marked here.

Q. You have that vessel located where you finally left her at approximately eight or nine hundred feet off the point of Tenas Illihee Island?

A. How much water?

Q. In four or five or six feet of water.

A. Well, is this the shore line, brush line, or is it the low water line, or what is it? Is that feet or fathoms?

Q. Feet, all feet; no, four fathoms of water over here.

A. I know there isn't and there is no four feet out from low water line, six or seven hundred feet from low water line; more than four and six feet of water too.

Q. At the point where you hooked onto the vessel, from point F to the point of the island is something over two and a quarter inches, or approximately 2,000 feet? And at point F, the water is from 18 to 20 feet deep. Was she grounded when you picked her up?

A. I couldn't say whether she was grounded or not. She was drifting; at least, I understood she was drifting.

Q. Whom did you understand that from?

A. From every one. That is why we put the line on when we pushed her over.

Q. From the talk?

A. Yes, sir.

Q. I still don't see how you could drag her from the point F to the point E, by any movement of that vessel, and by any movement you would make with the vessel, how you could drag her from point F to point E. I want you to describe that.

A. What reason couldn't she be dragged?

Q. You answer the question.

A. I don't understand the question.

Q. I suppose you had a windlass over here?

A. Would have to have a pretty good one to have one as strong as the Samson. Are you trying to make me say we floated her over the sand?

Q. No, I am not trying to make you say anything. I want you to explain how you dragged her from the point F to the point E.

A. This chart I don't know anything about; what we call the shore line—whether there is water out here or sand. There is a seining ground along in here. When I say this distance out here, it is that distance from where we left her. We left her, I should judge, in 20 some odd feet of water, 21 or 22 feet of water. We dragged her from a distance out here into that water. If there is only that much water according to that chart there, we picked her up out here a little further.

Q. You left her in 20 feet of water?

A. In the neighborhood of that, I think, yes, sir.

Q. How do you know that?

A. I understand that.

Q. 20 feet of water would let her float wouldn't it?

A. I don't think so, no, sir.

Q. You think the Henderson went down then in about 20 feet of water?

A. Yes, sir, she was laying on her side,—submerged; she was 30 feet some odd beam, as I under-

stand; only a little of one side of her hull sticking out.

Q. Now, did the stone barges break away from the Samson on the collision?

A. The port barge did, yes, sir.

Q. Broke away at once, did it?

A. I think so, yes, sir.

Q. Now, don't guess at that, Mr. Goodell; if you don't know, say so; if you do know, say so.

A. I know it was dusk there. I don't know whether those lines broke, or whether somebody took them off. I don't know.

Q. Nobody is going to get off and loosen those lines within an instant after the collision, are they?

A. I couldn't say up forward, because I couldn't see up there.

Q. Do you know how those barges were lashed to the Samson?

A. Yes, sir.

Q. What were they lashed to the Samson with—what lines?

A. She had the same lines she always had, with stern line on each barge, one tow line, two head lines, and a little breast one; I mean on each barge.

Q. On each barge?

A. Yes, sir.

Q. That means about four lines on each barge, approximately?

A. Yes, sir.

Q. Now, when you got out from your berth, after the jingle bells, did the collision take place after you

got out on the starboard side of the deck, or before you got there?

A. After.

Q. How long after you got out on the starboard side?

A. I couldn't say.

Q. A comparatively short time?

A. Yes, very short time.

Q. And can you measure it? Give an idea in seconds?

A. I suppose ten seconds, something like that.

Q. Well, then, could you say at that time whether the stone barges had broken any of the lines with which they were fastened to the Henderson? If you can say so, I wish you would.

A. Fastened to the Henderson?

Q. To the Samson, I mean.

A. I couldn't see any lines broken on the starboard barge, no sir.

Q. Could you see any lines broken on the port barge?

A. The stern line was broken on the port barge, and the others I couldn't tell.

Q. You don't know whether any lines were broken on the port barge, excepting that the stern line of the port barge was broken?

A. Yes, sir.

Q. Did that stern line do any towing of the port barge?

A. No, sir.

Q. Then the towing line of the port barge and the breast lines of the barges, if they were intact, would enable the Samson to control those tows?

A. The towing line and the breast lines, if the stern line gone?

Q. If the stern line of the barge was gone, it would enable the Samson to still control the port barge?

A. In a way, yes, sir.

Q. Which way were those barges headed when you found them next morning?

A. Headed upstream.

Q. Headed upstream? Now, did you—were you out on the Samson so as to supervise the anchorage of those barges?

A. No, sir; I had nothing to do with it.

Q. Have you any idea of the time after the collision that they were anchored?

A. Well, I know about the length of time that we left the barges and got down to the Henderson. I know about the length of time, and they were anchored during that time.

Q. What is your judgment as to the time in which they were anchored after the collision?

A. I think they were anchored in five minutes.

Q. During that five minutes the Samson was moving these barges, wasn't she, manipulating them?

A. No, sir.

Q. Just drifting?

A. Yes, sir.

Q. Didn't exercise any power on the barges by

means of her lines?

A. I don't think she did, no, sir.

Q. Then if that is the case, Mr. Goodell, then the barges would have drifted off in the same direction the Henderson did, wouldn't they?

A. They possibly did drift a little off from where we was.

Q. Possibly, but if the Samson wasn't exercising any power over her barges by means of her lines, and they were left to the current, they would drift in the same direction the Henderson did, wouldn't they?

A. They would go in that way, only was going with less momentum for shore.

Q. They were headed right for the shore with momentum?

A. I didn't say right. I said maybe. I say possibly going in towards shore, heading in towards shore.

Q. Going in on port helm, did you not?

A. I don't know anything about the helm.

Q. Going in on starboard helm then?

A. I don't know anything about what kind of a helm she had.

Q. Did you ever steer that vessel yourself?

A. Yes, sir.

Q. You know what steer is, to put the helm to port and starboard?

A. Yes, sir.

Q. Never been a pilot on any vessel?

A. No, sir.

Q. Nor a captain on any vessel?

A. No, sir.

Q. And your whole duty has been confined to marine engineering and in the engine room?

A. Yes, sir.

Q. What is the current of the river at Coffin Rock?

A. I don't know anything about it.

Q. What is the current of the river down off Pillar Rock below?

A. The current sets in straight through there onto the rock.

Q. Then where did the current lead? Where does it go then after it sets in on Pillar Rock—the Pillar Rock current?

A. Right on down—down the river.

Q. You don't know anything about the current of Coffin Rock?

A. No, sir, I don't. That is further up than we have been making these tows.

Q. Haven't you been on the river for 21 years?

A. Yes, sir.

Q. Have never been up there? Never been the engineer up to Coffin Rock?

A. I have been up there, but never very much—up that far, just towing.

Q. Now, do you mean to say that a barge or vessel of any kind, without power of any kind, turned loose in the Columbia River at a point about where you fixed the collision and there is twenty four and twenty five feet of water at that point, that that vessel

will make off toward the point of Tenas Illihee Island?

A. Yes, sir.

Q. And then it will go up on the shoal opposite Tenas Illihee Island, without going down the river?

A. Will drift over on this point; drift over that direction all the time.

Q. Then, if you had let the Henderson alone she would have drifted all right?

A. She would have eventually drifted off shore.

Q. She would have drifted where you hauled her?

A. I don't know as drifted there, no. She would have drifted further down the river.

Q. Drifted on the sands or shallow water where she couldn't have moved?

A. Probably drifted further down the river.

Q. Probably drifted further down the river?

A. Yes, sir, the current would set her down and over to that shore. I couldn't say where eventually struck the shore. Might have struck the shore and turned around and kept on going down. As I understand we pulled her over here, and held her till she grounded, and left her, and went up to the oil barge.

Q. Mr. Goodell, the anchors on these stone barges make a good deal of noise when they go down in the water, don't they?

A. Not a great deal, no, sir.

Q. What?

A. Not a great deal.

Q. What is the weight of the anchors, do you

know? Now, I want your knowledge. I don't want any guess work about it. If you don't know, say so.

Q. I know what it is now, close to it, approximation.

Q. What was it at the time of the accident?

A. I suppose about the same.

Q. Do you know—have you got the same anchors now, that you had then?

A. No, sir, I don't think we have.

Q. Then you don't know what the weight of the anchors in July, 1911 were?

A. Not exactly, no, sir. I believe that I said in that other examination that I made a guess at the weight of them, but it was nowhere near, I think, what the weight was.

Q. What other examination do you refer to?

A. The Inspectors'.

Q. The Inspectors?

A. Yes, sir.

Q. Down in the building—inspectors' building down there you mean?

A. Before the United States Inspectors of Steam Vessels.

Q. Were you a witness down there?

A. Yes, sir.

Q. At the time Jordan was tried?

A. At the time of this investigation. I don't know who was tried. I didn't pay no attention to who was tried, or what it was.

Q. Well, what is your guess as to the weight of

these anchors then?

A. The anchors weighs somewhere between four or six or seven hundred pounds—, somewhere along there.

Q. Did you hear the anchors of the oil barge let go that night?

A. I don't remember hearing any, no, sir.

Q. Were you in the engine room or were you on deck?

A. When?

Q. At the time that the barge, that the oil barge, is supposed to have anchored.

A. Well, I couldn't say. I don't know when she was supposed to have anchored. I went down to the engine room right just as she passed us.

Q. Mr. Goodell, counsel has produced a book here, which is called the log book of the Samson. Were you asked as to whether you made the entries in that book?

A. I don't think I was, no, sir. Did I understand you, was I asked?

Q. Were you asked whether you made the entries in this book?

A. I don't think I was, no, sir; I have no recollection of it.

Q. What do you—how do you make your entries in the log of the Samson? That is for your station in the engine room?

A. No, sir, I keep that book right there.

Q. What is that?

A. I keep that book right there on the desk. It is made at the time; whatever occurs, it is put right down at that time.

Cross Examination.

Questions by Mr. ERSKINE WOOD:

Q. You said, Mr. Goodell, you were awakened by the reversing bells you heard?

A. Well, I was aroused by the whistling before that.

Q. But it was those bells that caused you to jump out of bed?

A. Yes, sir.

Q. And you immediately made a leap to starboard deck. Is that right?

A. No, sir; immediately got out of bed, and got to the door.

Q. Where does that door open?

A. It opens right forward—out of the forward end of the house. Of course, is only a small house on the stern—on the upper house. This door opens right out the front there.

Q. So the moment you came out of that door, you could see where you were—is that right?

A. I don't know as can see where you are. I can't turn around and look back and tell where I am at, nor can't look straight ahead and tell where I am at.

Q. But you can see to the side of you?

A. Yes, sir.

Q. Clear view on either side of you?

A. If nothing in my way, yes, sir.

Q. Was anything in the way at that time?

A. The oil barge came along, and shut off my view of the port side.

Q. The starboard side you could see all right?

A. Yes, sir.

Q. And you believe were about 300 feet off Puget Island shore at that time?

A. I believe that is what I said.

Q. Did you determine that instantly you got out there, or did you think of that afterwards?

A. That was my memory of it, when I was asked the question afterwards.

Q. You didn't give it much attention at that time?

A. I never thought about the distance off. I could see the shore.

Q. There was no reason why you should?

A. No, sir; no reason at all.

Q. So really you may be quite badly mistaken about that distance?

A. I don't think so, no sir.

Q. Well, you gave it no particular attention, so what makes you think you are fairly exact about it?

A. The reason I said that was because I could see shore so plainly, that I thought about that distance.

Q. What could you see on shore?

A. See brush and the mouth of this slough, saw the piling up in this slough there, or dam, whatever it is.

Q. The piling in the slough below the Grove

Slough?

A. Yes, sir.

Q. Did you see it distinctly?

A. I saw it enough. That is what I located myself by. That is the flash that came into my mind, that that is where we were.

Q. Did you locate yourself instantly, or locate yourself five or ten minutes afterwards?

A. No, sir; I located myself not instantly, but in a very few seconds.

Q. Very few seconds?

A. Yes, sir.

Q. When you say that that was your recollection of it when you were asked the question, do you mean down before the inspectors, or today?

A. Down before the inspectors.

Q. That was the first time that you tried to estimate the distance, or give it any thought?

A. Give it any thought. That was the first time ever I was asked the question.

Q. Wasn't that the first time ever you gave it any consideration?

A. No, sir; I gave it consideration when we picked up those barges. I know it was so close to shore, the propeller was digging up mud.

Q. But that was long after the collision?

A. I know; that is what I say. That is when I really gave it a thought.

Q. What I mean is, from the collision until the time you picked up the barges the next morning, you

didn't think about how far you were from shore at all? No reason why you should, was there?

A. No, sir.

Q. You say you think that collision occurred about the same distance from the shore as where the stone barges came to anchor?

A. Somewhere near it, yes, sir.

Q. It has been testified here by independent witnesses who had a very good chance to observe it, and a real reason for observing it, that the stone barges, or two of them, were anchored on Tenas Illihee Island side of the range, 50 or 75 fathoms. Do you disagree with that?

A. I do, certainly do.

Q. If they are correct in that, and you were wrong, you would think then that the collision occurred on the Oregon side of the range. Is that right?

A. What is that question?

Q. You estimate that the stone barges lay at anchor and the collision occurred about the same distance from the shore—Puget Island Shore?

A. Yes, sir.

Q. I say if the testimony of these independent witnesses should be correct, that the stone barges were in fact anchored on the Tenas Illihee Island side of the range, then you would believe that the collision occurred on that side of the range?

A. Well, I don't see—there is no question to that, because the barges weren't there at all. They were on the Pugt Island side.

Q. There is a question to that. I asked, supposing they were.

A. I don't know. I thought I was here to answer questions, and not suppositions.

Q. Yes, you are there to answer the kind of questions that I put to you.

A. Well, all right. Now, what is the question?

(Question read.)

A. I would think that it might have been further from that shore, yes, sir.

Q. Might have been on the Oregon side of the range?

A. I don't say about ranges. I don't know anything about the ranges.

Q. Well, to cut it short, you still think that the distance they were out from the Puget Island shore was about the same distance that the collision occurred from the Puget Island shore?

A. Yes, sir.

Q. What was the Samson doing during those five minutes, or ten minutes that she lay around without any power, or apparently just drifting?

A. What was the Samson doing?

Q. Yes.

A. Why, she was drifting down stream a little.

Q. What were the people on board of her doing?

A. Getting her loose from those two stone barges, and putting down the life boats.

Q. How many lines did they have to get loose? To get loose from the stone barges?

A. I couldn't say.

Q. You know how they were lashed there?

A. I know how lashed, yes, sir.

Q. Then how many lines had to be cut or loosened?

A. I don't know.

Q. Why not?

A. Because I didn't see the lines forward.

Q. You mean you don't know how many lines were broken—is that the idea?

A. Yes, sir.

Q. You know none broken on the middle—starboard barge, don't you?

A. I don't know what became of the head line—whether they cut that loose, or whether they were broken.

Q. How soon after the collision was this searchlight put in play?

A. I couldn't say anything about it.

Q. You noticed it?

A. I know they had a searchlight on, yes, sir.

Q. Saw it yourself?

A. Yes, sir.

Q. Haven't you any idea how long that was after the collision?

A. No, I couldn't say how long it was, no, sir. I noticed when the Henderson was sinking, they had a searchlight on.

Q. What would be your best judgment on that?

A. Probably three or five minutes, something like

that.

Q. And at that time the Henderson was on your port bow?

A. I think so, yes, sir.

Q. You were headed which way?

A. I think we were headed in toward shore.

Q. What?

A. We were heading toward the Puget Island shore somewhere. I don't know just exactly how she was laying. I paid no attention after that, how the boat was laying.

Q. Mr. Goodell, do you remember both the preliminary investigation before the Inspectors, and also the Captain Jordan trial which followed it, in which you were a witness in both instances?

A. I was a witness but once.

Q. Well, you were a witness in Pilot Jordan's trial?

A. I guess that is the one.

Q. It was a very material point, wasn't it, where the Henderson lay? It was discussed a lot, wasn't it?

A. I don't think that question was asked me. I don't know anything about the testimony. I was only there a few minutes.

Q. You were there, weren't you, to give the Inspectors all the information you could, to help them solve the cause of this collision?

A. I was there and answered their questions that were put to me, yes, sir.

Q. Weren't you there to give them any informa-

tion which would aid them in getting a solution of this difficulty?

A. I don't know as I was, no, sir.

Q. Did you hold anything back from them?

A. I did not.

Q. You did not hold anything back from them?

A. No, sir.

Q. Don't you think, then, that it would have been natural that you should mention to them the Samson pulling this Henderson 700 feet?

A. I don't know as it would. No, sir, I never thought of it.

Q. Never thought of it?

A. The question wasn't asked me—anything about that.

Q. So that before this, you never said a word, a single word, about the Samson pulling the Henderson?

A. To whom do you mean?

Q. To the Inspectors.

A. No, sir, I told you I didn't talk to the Inspectors only just a few minutes on the stand. I wasn't there at the trial only just while I was on the stand.

Q. Yes, you were there at the trial, while on the stand.

A. That is what I say. That is all.

Q. You didn't keep anything back you thought they ought to know?

A. No, sir.

Q. And it never occurred to you to mention the

fact that the Henderson had been pulled by the Samson 700 feet?

A. No, sir. I supposed every one there would answer the questions asked them. I just simply answered the questions asked me.

Q. You say it was about ten minutes after the collision you put a line on the Henderson. I thought you said that. I wanted to make sure.

A. It is my recollection that was about ten minutes, or something in the neighborhood of that, from the time of the collision until we was down—I think we had a line on the Henderson, or was down there alongside the Henderson, around her. I wouldn't say we put a line on her just at that time. That is my recollection of it.

Q. I think you mentioned the screen lights, the side lights on the Samson, and Captain Jordan testified there was some little blocks put in there. I didn't understand.

A. I don't know anything about that.

Mr. MINOR: He wasn't asked about that.

Q. I know he wasn't. You do know the screens of the Samson are properly arranged so as to throw the lights from a point dead ahead, to two points abaft the beam?

A. I never heard they wasn't. I suppose they are, yes, sir.

Redirect Examination.

Questions by Mr. MINOR:

In your cross examination, Mr. Goodell, you located

one of the barges where you could see up Cathlamet channel.

A. I don't think I did.

Q. The one barge you said—I understood you said you could see.

Mr. SNOW: He didn't say that.

Mr. MINOR: He didn't say that?

A. No. I think the assistant said something about that.

Q. Then I was mistaken. I thought you said that. Now, you say that you didn't go into the distances from the shore line here, or the shore line here, but that you were placing this wreck of the Henderson about where you think it occurred, where you think it was, but of course that must be taken in connection with the depth of the water?

A. Yes, sir.

Q. There are sands, I understand you to say, along this Tenas Illihee Island?

A. Yes, sir.

Q. And they run out?

A. I don't know how far they run out.

Q. At low water run out further than at high water?

A. Certainly.

Q. So you didn't mean to answer, in answer to this question, as to exact distance?

A. No, sir. That is what I tried to convey here, that I wasn't answering in regard to depth of this water here. If this water was shallow out like this,

it all would be shoved over this way. I don't know whether this shore line, whether they call that brush, or low water mark. I know not low water mark, because would be no water there if it was in my estimation.

Q. In stating time, Mr. Goodell, did you take any time by your watch, or anything else that night?

A. What is that?

Q. In stating the time that you have stated, from time to time, did you take any time by your watch that night?

A. No, sir.

Q. That is all then estimated?

A. Just an estimate, yes. Yes, sir, all my time. Time and distances.

Q. On one of these charts, Mr. Goodell, I notice a little point marked "Joe's Fishery." Do you know that?

A. I know that place, yes, sir.

Q. Now, Joe's Fishery, I understand, is the same thing as this piling that Mr. Snow called your attention to, where you said the oil barge is anchored. Is that it?

A. Joe's Fishery?

Q. Yes.

A. No, sir.

Q. Where is Joe's Fishery?

A. Joe's Fishery, as I understand, is quite a ways below that.

Q. This barge, then, was anchored above Joe's

Fishery?

A. Oh, yes.

Q. But below the point of the bluff?

A. Below the point of the bluff, yes, sir.

COURT: There was some discussion at the time that that was up above. There were two places designated as Joe's Fishery.

A. I think you are mistaken. There is a trap; they might have called it a fishery. But what they always called Joe's Fishery is the house and where he lives—fishery, old Joe. Joe's Fishery is here below. He had some old slat traps and one thing and another. That is one of the old slat traps I refer to.

Q. That place you call Joe's Fishery—that is the place where the barge anchored?

A. I don't know whether ever called that Joe's Fishery or not. That is the upper slat trap.

Q. If that is the place, that is where the barge anchored?

A. Yes, just above it.

Mr. ERSKINE WOOD: That is where the old piling is, just below Hunt's Mill point?

A. Just below the bluff. I don't know anything about Hunt's Mill point.

Witness excused.

Mr. SNOW: Will it be agreed that Mr. Goodell is still in the employ of the Columbia Contract Company?

Mr. MINOR: Mr. Goodell is still in the employ of the Columbia Contract Company.

PETE LURSTED, a witness called on behalf of claimant, being first duly sworn, testified as follows:

Direct Examination.

Questions by Mr. MINOR:

Mr. Lursted, what is your occupation?

A. Sailor.

Q. How long have you been engaged in that occupation?

A. Oh, about 16 years.

Q. Where have you been engaged in that occupation?

A. Oh, different parts of the world.

Q. Ever work on the Samson?

A. I did up in—a year ago I worked on the Samson.

Q. A year ago last summer?

A. Yes.

Q. How long did you work on the Samson?

A. Worked over about two years.

Q. What were you doing on the Samson?

A. Sailor.

Q. What particular part of the work were you doing?

A. Tie up barges, make fast the boat, and steering, different things like that.

Q. You were a helmsman, weren't you?

A. What?

Q. Were you a helmsman on the boat—steering?

A. No. Well, I took the wheel.

Q. Took the wheel sometimes?

A. Yes.

Q. Do you remember the time of the collision between the Samson and her barges, and the Henderson and Oil Barge 93?

A. Yes, sir.

Q. You were working on the Samson at that time?

A. Yes, sir.

Q. Were you on duty at the time of the collision?

A. No, was sleeping. Just got up from deck.

Q. What roused you that night?

A. The trouble bell.

Q. The trouble signal. Describe what it was that roused you.

A. What?

Q. Describe what it was that roused you. Describe the signal. I don't know it.

A. Electric bells that goes in forecastle where we sleep, from the pilot house. When there is trouble, they ring that bell for us to get up and get out.

Q. What did you do when you got up?

A. I run up on deck, and there was a collision right there.

Q. What side of the deck did you run on?

A. On the port side, I think. If I ain't mistaken, it was the port side I run.

Q. Were you forward or aft?

A. Forward.

Q. Did you see the vessels come together?

A. No, didn't get up in time. Could see it was

something dim, but couldn't see what it was.

Q. Do you know the Oregon and Washington shores down there?

A. Yes, sir.

Q. What is on the Oregon shore, and what is on the Washington shore along there?

A. Well, going down the Oregon side, a big hole there.

Q. The Oregon shore?

A. Yes, sir.

Q. And the Washington shore, what is it?

A. That is low land.

Q. Low land?

A. Yes, sir.

Q. Do you know what that low land is called?

A. Puget Island.

Q. Now, did you notice how the Samson and her barges were headed when you came up on deck?

A. No, I couldn't tell.

Q. What is that?

A. No.

Q. Didn't notice how the Samson and her barges were heading when you came on deck?

A. Not when I came up on deck, no.

Q. Did you after you got up on deck?

A. What?

Q. Did you notice how they were heading after you got up on deck?

A. Well, it looks to me when I see where I was at after the collision, looked to steer right for the isl-

and.

Q. Puget Island?

A. Puget Island, yes, sir.

Q. What did you do after the collision?

A. Got orders to get on the barges.

Q. What did you do when you got on the barges?

A. We got orders to come back again and get the boat overboard.

Q. Put the boat overboard?

A. Yes, sir.

Q. What did you do?

A. Well, we put the boat overboard, and I jumped in the boat.

Q. Then what did you do?

A. Went over to the Henderson.

Q. How did you go over to the Henderson?

A. Pulled over there in the boat.

Q. Go back behind the Samson or in front of her?

A. Back of the Samson, astern of the Samson.

Q. Astern of the Samson?

A. Yes.

Q. Do you know where the Hunting Range lights are down there?

A. You mean the ranges? I know where they are. I couldn't say how it looks like. I was pulling, and the mate was steering the boat.

Q. Now, at the time of the collision, on which side of the Hunting Range lights, was the Samson and her tow?

A. I didn't notice the ranges just then.

Q. What is that?

A. I didn't notice the ranges.

Q. Didn't notice the ranges?

A. Not that I remember.

Q. Did you notice the ranges when you went over to the Henderson?

A. Yes, I think I did notice the ranges then.

Q. You noticed when you went over to the Henderson?

A. After we got over, we laid quite awhile.

Q. Did you notice the ranges when you crossed them going from the Samson to the Henderson?

A. I couldn't tell, because I was pulling, and I didn't pay no attention to that.

Q. What boat was the first boat to get to the Henderson?

A. We was.

Q. You were. Do you know how far the Henderson was from the Samson at the time you got to the Henderson?

A. I couldn't say exactly; a little ways off.

Q. A little ways off. Were you on the Samson when she picked up her barges the next morning?

A. Yes, sir.

Q. Which one did you pick up first?

A. I think we picked up the small one first. One was alone.

Q. One was alone?

A. Yes, the port barge.

Q. Where was that now, with reference to the

Puget Island shore?

A. That was off the Puget Island shore, on the side, way—quite a ways down.

Q. On the Puget Island shore?

COURT: Those barges seem to be the same size, and he talks about the small one.

Mr. MINOR: That is true; he spoke of the lone one afterwards. As a matter of fact the center barge was a little smaller than the other two, but only a small difference.

Q. Which barge was that, do you know?

A. That was the port barge.

Q. Now, how far was that from the Puget Island shore, in your judgment?

A. Not very far; pretty close to shore.

Q. About how many feet do you think it was?

A. I don't remember.

Q. You don't know how far?

A. I think I said for the Inspector; I don't know; I ain't sure.

Q. Speak a little louder.

A. Something like 200 feet. I won't say for sure. I don't know.

Q. Was it anchored at that time?

A. What?

Q. Was it anchored at the time you picked it up?

A. Yes, she was anchored.

Q. Then were you present when they picked up the other two barges?

A. Yes, sir.

Q. How were they with reference to the Puget Island shore?

A. Oh, I judge mostly about the same distance.

Q. Were they anchored at the time you picked them up?

A. Yes, sir.

Q. Were they together?

A. They was together, yes, sir.

Q. How far down the shore of the island—Puget Island, was the barge you picked up first, the next morning?

A. She was quite a way down.

Q. What is that?

A. She was quite a ways down.

Q. Quite a way down?

A. Yes.

Q. Do you know where the point of that island and Cathlamet Slough is?

A. Yes.

Q. How far was it from that?

A. I really can't say; must have been close to the point, the end of the island.

Q. Close to the point?

A. Something around there, yes.

Q. Now, have you any idea how far the other two barges were when you picked them up from the place where the boats came together?

A. Mr. SNOW: This witness doesn't know where the boats came together. He didn't see the collision and says he didn't.

A. I just got up, just as the collision took place.

COURT: Read the question.

'Question read; objection overruled.

A. I don't think very far. I wasn't on the boat when they anchored.

Q. You weren't there?

A. Not when they anchored the two barges.

Q. But you were there when they picked them up?

A. Yes.

Q. And you were on the deck just after the boats came together—when the collision took place?

A. Just came on deck and the collision took place.

Q. About how far do you think they were, where anchored the next morning, from the place where the collision took place?

A. The barges?

Q. Yes, the barges.

A. The two together?

Q. Yes, the two together?

A. I don't think they was very far from the place of the collision.

Q. Were they near the Washington shore or not?

A. They were near the Washington shore.

Q. Near the Washington shore?

A. Yes, to the Island, Puget Island.

Q. Mr. Lursted, do you know of a little slough on the Puget Island side, in the mouth of which some piles, or something like piling is driven in?

A. Yes, I remember there is a slough there.

Q. What is that?

A. I remember there is a slough there.

Q. And you remember the slough which has some pilings or something of that kind, driven about the mouth of it?

A. I can't remember if any piling there.

Q. Now, do you remember the slough—do you know where Ostervolt's house is?

Q. No, I never been through there.

Q. Never been through there at all?

A. Just going by.

Q. How many sloughs do you remember on the Puget Island side?

A. Well one—no, I won't say for sure if more than one or not; might be more. I couldn't say for sure. You see I ain't been down there for over a year, so I can't say for sure.

Mr. SNOW: Did you ever know how many sloughs there were?

A. I won't say for sure; I know there is one; might be two or three; I won't say for sure.

Mr. SNOW: There might be a dozen too?

A. I know there ain't; not on that side; can't be a dozen.

Q. Do you remember some fish boats coming to the Henderson after you got there?

A. Yes, sir.

Q. How long did they come after you got there?

A. Shortly after we got there.

Q. Did you ever steer the Samson?

A. Yes, sir.

Q. Did you ever steer the Samson down through  
Buby Hole and up along Puget Island?

A. Yes, sir.

Q. How often?

A. Well, we get the same wheel that we hold for  
one week, then we change.

Q. How is that?

A. We get the same—we take the same wheel for  
one week, then we change; then we take the next turn.

Q. You had steered the Samson along there your-  
self, had you?

A. Yes, lots of times.

Q. What lights are there there that you observe  
in steering the Samson along through those waters?

A. What lights is there?

Q. What lights do you observe?

A. That we steered for?

Q. Yes.

A. Going down?

Q. Yes.

A. We didn't steer for no lights.

Q. You didn't steer for lights?

A. No, not going down, before we get around  
Buby Hole, get around the bend.

Q. When you get around Buby Hole is there any  
light for which you steer?

A. Then we steer for Skamokowa light until we  
get the ranges in line.

Q. Steered for Skamokowa light until you got to  
the ranges?

A. In line.

Q. Do you know how long it is after you turn the point before you get the ranges, while you are steering for Skamokowa light?

A. I can't judge it.

Q. Can you tell anything about how far it is?

A. What?

Q. Can you tell anything about how far it is?

A. No, I couldn't tell how far it is.

Q. How did you find the Samson steers? How does she steer?

A. Steers fine.

Q. Steers fine. Did you ever have any difficulty in steering her?

A. No, never had no trouble to steer her.

Q. I understand you didn't notice the range lights the night of the accident at all?

A. I won't say for sure if I did or not.

Q. Which way does the current set you, going down there, after you make the turn of Puget Island?

A. Well, I won't say because I never noticed the current. We get there at nighttimes, and I never did notice the current down there.

Q. You never noticed the current.

A. When we get around we give her—from the time Bugby light opens, we call it, we give her port helm until we get the Skamokowa light.

Q. Give her port helm?

A. Or hold it until we get on Skamokowa light.

Q. Until you get on Skamokowa light?

A. Yes, and then we steer for that until the ranges get in line.

## Cross Examination.

Questions by ERSKINE WOOD:

Mr. Lursted, how far have you ever run the Samson alone?

A. Alone?

Q. Yes, steering alone.

A. Well, there is only one man to the wheel.

Q. Well, how often have you ever been left at the wheel alone?

A. Left alone?

Q. Yes. You know all the lights.

A. What do you mean by that leaving alone?

Q. Alone in the pilot house.

A. The pilot might be outside the house walking on the bridge.

Q. You know all the lights down there?

A. I do. Not very well; ain't been down for a year.

Q. You steer her often?

A. Steer her all the time, when my turn comes.

Q. You said you steered her yourself often. You have often steered her yourself, you say?

A. Well, there is only one man to the wheel. I must be steering alone.

Q. You don't mean that the pilot has ever left you there alone?

A. Not that I know of.

Q. Never has done that?

A. Not that I know of.

Q. You are sure of that?

A. I am sure, yes.

Q. Did Jordan ever leave you this night?

A. I wasn't on Jordan's ship that night.

Q. Were you there when they picked up the anchors of the stone barges the next morning?

A. Yes, sir.

Q. Did you help pick them up?

A. Yes, sir.

Q. How did you pick them up?

A. Took chains and capstans and heaved them up.

Q. Get all the anchors back?

A. At the time you get the anchors you put on barge.

Q. You didn't slip any of your anchors?

Q. Slip?

Q. Yes.

A. What do you mean by slip?

Q. You got them all up, didn't you?

A. Yes, sure, heaved them up.

Q. Which way were the stone barges headed at the time of the collision?

A. As I told you, I couldn't say. I just came up on deck, and the collision took place.

Q. You came up on deck just before the collision?

A. Just when the collision took place, I came up on deck.

Q. Which way were the stone barges headed then?

A. Looked to me heading for Puget Island.

Q. How far away from the island?

A. I couldn't exactly say how far. Close to the island.

Q. How close?

A. I couldn't judge. I didn't measure it, and I couldn't judge. I don't know how wide it is across there. I wouldn't say.

Q. You know how far they were anchored from the island?

A. Yes, saw it then by daylight.

Q. You remember that better?

A. Well, yes: I remember that. It was daylight then and could see.

Q. You don't remember how close you were to the island at all at the time of the collision?

A. It was close. I could see it was close to the island.

Q. Did you say down before the Inspectors at Jordan's trial, that the barges and the Samson when you came on deck, were headed right for Puget Island?

A. Well, maybe I remembered better then. Might if I did. It was a year and a half ago since then.

Q. How long did it take you to get over to the Henderson in your life boat?

A. Oh, I couldn't say exactly. That ain't took very long.

Q. Make a guess how long it took you?

A. No, I couldn't; couldn't guess in any kind of

time; didn't watch time.

Q. How long do you think it was after the collision?

A. After the collision, when I got over there?

Q. From the time of the collision until you reached the Henderson.

A. I couldn't judge that. I ain't timed it.

Q. I know, but you can give me an idea.

A. No, I couldn't do it. Not so very long. I just got time to go down on the barge, and then as soon as I got there, he hollered to come back and get the boat overboard. As soon as we got the boat overboard, I pulled over there.

Q. How far away was the Henderson when you pulled over?

A. I didn't look at the Henderson. The mate was steering the boat. I was pulling. I had my back to the Henderson.

Q. Haven't you any idea how long it took you to get over there?

A. No.

Q. Was it an hour?

Q. An hour?

Q. Yes.

A. No.

Q. Was it a minute?

A. Oh, I guess it was a minute or more.

Q. Give me an idea. I am not trying to pin you down, but give me an idea.

A. Well, I don't think it would take over five min-

utes.

Q. All right. That is all I want to know.

A. Something like that. Was close, as I can judge.

Q. What was the Henderson doing then?

A. Laying there.

Q. Laying there on her side?

A. Laying there on her side.

Q. Sunk?

A. Sunk, yes; just a little bit sticking out of the side.

Witness excused.

EINIR GRUNSTAD, a witness called on behalf of the claimant, being first duly sworn, testified as follows:

Direct Examination.

Questions by Mr. MINOR:

Mr. Grunstad, what is your occupation?

A. Steamboating.

Q. How long have you been engaged in that business?

A. About ten or fifteen years.

Q. Whereabouts?

A. On the Columbia river.

Q. You hold a master and pilot's license, do you?

A. Yes, sir.

Q. First class or second?

A. First class.

Q. How long have you held that kind of a license?

A. About three years, master's license.

Q. Before that you held what?

A. Mate's and pilot's.

Q. Where were you on the morning of July 22, 1911?

A. Going down the Hunting Range, with the Daniel Kern.

Q. What were you doing on the Daniel Kern that night?

A. Pilot.

Q. What was the Daniel Kern engaged in doing at that time?

A. Towing rock barges to Fort Stevens.

Q. From what place?

A. Fisher's Quarry on the Columbia.

Q. Do you know the Samson?

A. Yes, sir.

Q. What business was the Samson engaged in at that time?

A. Same business.

Q. What was the difference in the route of the Samson and that of the Kern?

A. They are practically about the same.

Q. Didn't the Kern come up to the quarry and the Samson didn't?

A. Yes, sir.

Q. The Kern made a trip every two days?

A. Three trips a week.

Q. And the Samson made one every day?

A. We made three trips a week.

Q. Now, did you pass the Henderson on the night

of the 22nd of July, 1911?

A. Yes, sir.

Q. What was she doing when you passed her?

A. What was she doing?

Q. Yes.

A. She was coming up with Oil Barge 93.

Q. Did you see that?

A. Yes, sir.

Q. Where were they when you saw them?

A. On the Hunter Range.

Q. At the Hunting Island Ranges?

A. Yes, sir.

Q. Did you pass them?

A. Yes, sir.

Q. Where, in your judgment, did you pass her?

A. Well, I should judge about where those old pilings was, at the lower end of the seining ground, down towards Cathlamet cut-off; somewhere in the neighborhood of that.

Q. Where? I didn't hear.

A. Those old pilings at the lower end, or sands on the Puget Island shore.

Q. On the Puget Island shore?

A. Yes, sir.

Q. Where is that with reference to the lower point of Puget Island?

A. A little above that slough, that cut-off, what is called the Cathlamet cut-off.

Q. A little above that slough?

A. Yes, sir.

Q. Do you remember a place where the fishermen congregate there, and from which they make, we will, say, their drifts?

A. Well, we generally meet fishermen all along there on that drift.

Q. Now, this little place that I speak of is about, I think, a quarter of a mile from the lower point of Puget Island. Do you know where that slough is there?

A. Above the lower point?

Q. Above the lowest point of Puget Island?

A. Yes, sir.

Q. You know where that slough is, do you?

A. Yes, sir.

Q. How far do you think you were, above or below, that slough when you passed the Henderson and her tow?

A. Well, we was just about in that neighborhood.

Q. Just about in that neighborhood?

A. Yes, sir.

Q. Do you know whether you were above or below it?

A. Well, I couldn't say, but we was in that neighborhood.

Q. Did you notice the manner in which the Henderson and her tow was steering?

A. Well, it indicated to me that, when I swung in on the ranges, that her green light first disappeared and then it showed in sight—came in sight again, but I had swung onto the ranges, and steadied my ship,

and I immediately got off; got the lower side of the ranges in order to keep clear of her, and while I was getting off, the red light disappeared, and that is before I had got off the ranges.

Q. Did you receive any signal from her?

A. Yes, sir.

Q. What signal did you get?

A. I got two blasts of the whistle from the oil tank.

Q. What is that?

A. I got two blasts of the whistle from the oil tank.

Q. Did you answer it?

A. I did.

Q. Which side did you pass?

A. I passed to her starboard.

Q. Now, was this signal to pass given before or after you noticed this irregularity in her lights?

A. It was after.

Q. Given after that?

A. Yes, sir.

Q. And did you see the Samson and her tows that night?

A. Yes, sir.

Q. Where did you see them?

A. Well, saw them come up behind us all the way, until I passed through Bugby Hole, and I didn't see them after that, didn't pay no more attention to them.

Q. You don't remember seeing the lights of the Samson after you passed Bugby Hole?

A. No, I do not.

Q. How far, in your judgment, was the Samson behind you before you passed through Bugby Hole?

A. Well, she was about between one half and one mile behind us, something like that.

Q. Between one half and a mile behind you?

A. I should judge. I am not positive; not over a mile anyhow.

Q. How did you know it was the Samson?

A. Could tell by her lights.

Q. What is there peculiar about her lights that enabled you to tell?

A. Sir?

Q. What is there peculiar about her lights that enabled you to tell?

A. Well, she has two bright lights on the barges, low in the water, down in the water, but they are on the outside barges, and her headlights flare too, pretty large, so a fellow would distinguish the difference in any other boat.

Q. Did you notice the two white lights on the barges that night when you saw her?

A. Yes, sir.

Q. And she was headed towards you, was she?

A. Yes, sir.

Q. You think, as I understand it, she was between a half a mile and a mile behind you?

A. In that neighborhood, yes, sir.

Q. Did you ever steer the Samson?

A. Yes, sir.

Q. And you have steered the Kern, have you?

A. Yes, sir.

Q. On the Kern, do you use a helmsman?

A. No, sir; steer myself.

Q. And on the Samson you do?

A. I didn't at that time, no.

Q. You didn't have any helmsman when you steered the Samson?

A. No.

Q. Do you steer by compass?

A. Yes, sir.

Q. You have a course by which you steer?

A. Yes, sir.

Q. Use the same courses for the Samson and the Henderson?

A. No, sir.

Q. The Samson and the Kern?

A. No, sir.

Q. Why is that?

A. Well, at that time, when I was on the Samson, I had nothing to do with the course. I was with Captain Sullivan when he was master of the Samson, and I shipped as a sailor at the time; and the mate quit, and I went in the capacity as mate at that time, for a few days; and I didn't pay any attention to the compass. I handled the wheel with Mr. Sullivan, but the Daniel Kern I steered my own watch, and steered by compass.

Q. Do you know where the Hunting Island Range lights strike along between Puget Island—Tenas Il-

lihee, and the bluff in Bugby Hole?

A. Yes, sir.

Q. On which side of the river do they go nearest?

A. Take pretty close to Puget Island.

Q. Pretty close to Puget Island?

A. Yes, sir.

Q. Do you know the currents in that part of the river?

A. Yes, sir.

Q. How do the currents set from Bugby Hole, as you come into this channel, between Puget Island and Tenas Illihee?

A. Well, it has a tendency to draw down Clifton Channel, or what they call Prairie Channel, until you get opposite this island, Tenas Illihee Island; then the current is practically straight.

Q. Is the set down Prairie Channel or Clifton Channel strong or otherwise?

A. Well, at certain stages of the water, it sets down pretty strong.

Q. What stages does it set down strong?

A. Well, you take after a high tide, there is quite a draw down through Clifton Channel.

Q. Captain, I wish you would come down here a moment, taking Libellant's Exhibit 1. If the Henderson with the oil barge was at the point which I show you, marked "Oil Barge ES", and the Samson and her barge was at the point "B ES", and the Henderson and her oil barge went in a course like the one which I show you, to the point indicated by Cap-

tain Sullivan as the point of the collision, except that course instead of being in a straight line was in a curved line, as I indicate here; and the Samson came to that point of collision from the point where she was when the Henderson saw her, what light would the Henderson and her barge show to the Samson?

A. Light?

Q. You see what I mean there, do you? One is running this way, and the other is running the other.

A. I think you could see all the lights.

Q. Could see all the lights?

A. Yes, sir.

Q. You think you could see the green and red light both?

A. I think so, yes.

Q. Now, if the Samson, when the first whistle was given, was at the point indicated here, as point where first signal was given, and the Henderson at that time was at the point here, the point indicated by Captain Sullivan as the point where the Henderson was at the time when the signal was given, and the Henderson was coming on the course indicated by Captain Sullivan, what light do you think you would be able to see from the Samson?

Mr. ERSKINE WOOD: The Henderson still going on that curve.

A. The Henderson still going on this curve—at what mark? This mark?

Q. Yes.

A. And the Samson right here?

Q. The Samson right at that mark there, yes.

A. I think you could see her green light.

Q. Only her green light?

A. Yes; her red light; think would be able to see green light also.

Q. You think you would be able to see the green light then too?

A. I think so.

Q. If when the second signal was blown, the Samson had been at the point indicated by Captain Sullivan, as the "Samson at the time second signal," which was the original location, and the Henderson was at the point which he indicates here as "second signal," and the point of collision is the point which I show you, the one indicated by Captain Sullivan as the point of collision, the Samson then holding on this course from that point to the point of collision, and the Henderson holding on this course from that point to the point of collision, what lights would appear?

MR. ERSKINE WOOD: What is the point of collision?

Q. The point of collision he marked right there; only one point of collision.

A. You mean the Samson on this (indicating)?

Q. The Samson holding on this course.

A. That is her line?

Q. That is her line.

A. She is pointing towards Puget Island?

Q. No, sailing this way; the other vessel sailing

this way. (Indicating). What lights would appear from the Samson to the Henderson?

A. From the—why, you could see her green lights.

Q. And what lights would appear from the Henderson to the Samson?

A. Red lights.

Q. Any other lights?

A. Bright lights.

Q. No lights but the red lights and bright lights?

A. I think not.

Q. Now, if you take the location here (indicating), and put the Samson on this point, which Captain Sullivan afterwards changed as the correct location of the Samson, and she is going down to the point of collision, which has not been changed at all, and the Henderson—

A. Do I understand the Samson to be running this way?

Q. Pointing this way (indicating).

Mr. SNOW: No, that isn't his testimony at all.

Mr. MINOR: I know what I am talking about, Mr. Snow.

Q. And the Henderson is going in this direction (indicating) from the second whistle, as indicated by Captain Sullivan in his testimony, one going to this letter, one going that line; what lights would appear from the several boats?

A. Well, it depends on how far they were apart. If the Henderson was far enough back I don't know

whether she would see the Samson's—

Q. The Henderson is here; that is what I told you.

A. Yes, sir.

Q. The point of the oil barge right there—"corrected location oil barge," right there. You see the point?

A. Yes, sir.

Q. And the Samson at that time is there. Do you see that point there?

A. Yes, sir.

Q. And the point of the collision is there (Indicating.) You notice the point of collision?

A. Yes, sir.

Q. Now, coming this way, along that line, from the point where the second whistle given, to the point of collision, and the other coming from the point you see to the point of collision, what lights would appear?

A. Well, I think the green light of the Samson would show to the Henderson, and the red of the Henderson would show to the Samson.

Q. No other?

A. No, sir.

Q. Now, supposing the Samson were at this point here, which is marked here as "second correction of Samson." See what I mean?

A. Yes, sir.

Q. At the second whistle, and the oil barge is at this point, the same point, only one correction there, at this point here; and the Samson coming on that

line, a line from the point where she was at the time of the second whistle, as indicated by Captain Sullivan, and the Henderson was coming on this line from the point of the second whistle, as indicated by Captain Sullivan, and at that time they were not more than five to six hundred feet apart, what lights would appear?

A. Well, I think the same lights would appear.

Q. Green lights from one, and red lights from the other?

A. And red light from the other.

#### Cross Examination.

Questions by Mr. SNOW:

Q. Captain Grunstad, when you come down the river in the neighborhood of Bugby Hole, and after you leave Westport Light, do you round that point of Puget Island on a continuous port helm?

A. I don't carry any port helm until I pass the lower end of Coffee Island; then I get the current from the channel, which has a tendency to carry down towards Bugby Hole, and you have to carry a little Port helm.

Q. Carry a little port helm from the time you leave Coffee Island.

A. Just a trifle, yes.

Q. When you get around the point of Puget Island, you keep all your port helm, or do you steady up?

A. Steady up until I begin to make a turn in Bugby Hole; then I carry port helm.

Q. Straighten to what?

A. Straighten until get down to Bugby Hole; then carry port helm.

Q. Until you get in Bugby Hole?

A. Until I make the turn in Bugby Hole, yes.

Q. Is that where you go down to the ranges?

A. No, sir.

Q. Above the ranges?

A. Carry a little port helm until I get the ranges.

Q. Then you steady her up?

A. Yes, sir.

Q. Then you follow the range lights?

A. Yes, sir.

Q. Then you round that point of the island from Coffee Island, until you strike the range lights—you run on slightly port helm?

A. Just a trifle.

Q. What?

A. Just a very little.

Q. Then you steady up, and go down on a steady helm until you strike the range lights?

A. No; steady up until I get down in Bugby Hole; until I get down through Bugby Hole.

Q. Then make another port helm?

A. Yes, sir.

Q. Until you strike the range?

A. Yes, sir; until I get well out of Bugby Hole; then I steady up a little until I get down on the ranges.

Q. Now, Captain Grunstad, where do you say you passed Captain Sullivan that night?

A. Why, down by the little old piling at the lower end of the sand spit, down towards that Cathlamet cut-off.

Mr. MINOR: I didn't hear that answer.

A. Down toward Cathlamet cut-off.

Q. You mean by Cathlamet cut-off, the channel up to Cathlamet?

A. No, sir; there is little channel that the towboat men tows through there; going from Clifton they drop over and come through this cut-off.

Q. And is that what you mean by cut-off?

A. Yes, sir.

Q. Go and point it out on the chart, will you?

A. (Indicating) Here.

Q. No; that is Cathlamet Slough.

A. This is the way up Cathlamet.

Q. Isn't that Cathlamet cut-off?

A. No, this is the cut-off here. I think some trap pilings in this neighborhood, somewhere around here.

Q. Had you passed Cathlamet Slough before you met Sullivan?

A. No, sir; we was this side of it. In this neighborhood, in this place here.

Q. You had not passed the slough then?

A. No, sir.

Q. He had?

A. I just met him right here; that is somewhere in this slough.

Q. Was he on the ranges then?

A. Yes, sir.

Q. Don't you remember meeting, or don't you know the fact that there was a little fish boat in between you and Sullivan when you were going down, and he was coming up?

A. I met a fish boat down here (Indicating), down the ranges here; after I passed the Henderson, I swung back on the ranges, and met a fish boat, picking up his net, just before I left the Hunting ranges to steer for Skamokowa light.

Q. Didn't you have a fish boat between you and Sullivan when you passed each other?

A. No, sir; no fish boat in the vicinity at that time.

Q. You are sure of that?

A. I am positive. If there was, I would have seen it.

Q. Don't you remember a fish boat there, showing a green light to Sullivan, and he went to one side, and you went the other?

A. No, sir; no fish boat there.

Q. Didn't you run into his net?

A. No, sir.

Q. Did you run into any net that night?

A. No, sir; I saw a fish boat down here, that showed me a light, and I went up—

Q. Down where?

A. Down past the lower point of this island.

Q. That is after you had passed Sullivan?

A. Yes, sir.

Q. Now, you claim you passed Sullivan up beyond the lower point of Puget Island?

A. Yes, sir.

Q. How far above?

A. I don't know. I should judge up—I don't really know the distance from that trap—from about where that trap was, or above this point.

Q. Is there a slough there?

A. This is the slough I had reference to.

Q. Outside of that slough; I mean a slough jutting into Puget Island.

A. Yes, sir.

Q. Where you passed him?

A. No; this is the slough I passed him, the cut-off.

Q. How far above that were you when you passed Sullivan?

A. I don't hardly think I was a quarter of a mile above it; not that far.

Q. A quarter of a mile above?

A. Not quite.

Q. That is approximately 1300 feet.

A. Well, it is hardly that. About a thousand feet, I should judge.

Q. Sullivan was on the ranges?

A. Yes, sir.

Q. You had been on the range, and took off below the range?

A. Yes, sir.

Q. To pass Sullivan?

A. Yes, sir.

Q. And gave Sullivan the range?

A. Yes, sir.

Q. And Sullivan was on the range at that time?

A. He was.

Q. At the time you passed him?

A. Yes, sir, I guess he was.

Q. Captain, what do you mean by saying the green light on Barge 93 was sort of wiggling, or whatever term you used?

A. Beg pardon?

Q. What do you mean by saying the green light on Barge 93 was sort of blinking? What did you say?

A. I didn't say blinking.

Q. What did you say?

A. I said disappearing out of view from my boat.

Q. So you could only see the red light—the Samson?

A. Yes; the green light disappeared for only a few seconds, but it showed up again.

Q. That is the green light disappeared?

A. Yes, sir; that is while I was on the ranges.

Q. As a matter of fact, that green light isn't a very prominent light at night a very long way off. You know the green light is very hard to see a long way off.

A. If electric light it would show plain.

Q. What?

A. If electric light it would show plain, but these oil tankers and towing ship, when you put her light the off side of a ship, it is generally a dim light, and you can hardly see it.

Q. I don't understand it.

A. I say the light they transfer from the boat to the outer part of a ship they are towing is generally a dimmer light than the electric light of the boat. The red light of the Henderson showed to be clear that night, but an oil light is always dimmer than an electric light.

Q. So you say, do you, that the Henderson had a red light?

A. Yes, sir.

Q. She had a red light on her port side?

A. Yes, sir.

Q. And the Henderson had a green light on her starboard side.

A. The barge had a green light on the starboard side.

Q. The barge had a green light on the starboard side?

A. Yes, sir, and the Henderson had a red light on the port side.

Q. And the Henderson had a red light on her port side?

A. Yes, sir.

Q. And the green light is the light that you say is not a very distinct light at night on a barge like that?

A. No, sir.

Q. You travel down and you see what afterwards proves to be a green light, that looks very much like white at night?

A. What is that?

Q. You often travel down the river and see a green light that looks almost white at first.

A. Sometimes, yes, sir.

Q. Then when you get a little nearer to it, it shows its true color?

A. I didn't catch that.

Q. When you get a little nearer to the vessel that carries the light, it shows true, green light?

A. Yes, sir.

Q. You say that his green light disappeared for a moment?

A. Yes, sir.

Q. How long a time?

A. Oh, I said just a few seconds.

Q. Just a few seconds?

A. Yes, sir.

Q. How long after that was it that you got your whistle from the Henderson to pass to starboard?

A. Oh, it was about four or five minutes, I should judge.

Q. Four or five minutes?

A. Somewheres like that, five or six.

Q. Were you on the range lights when the Henderson whistled for—that she was going to take the starboard, and you to take the starboard side?

A. No, sir, I was off the ranges.

Q. Below the range lights?

A. Yes, sir.

Q. How far below the ranges were you?

A. Well, I don't exactly know. I should judge

200, 250, 300 feet, something like that.

Questions by ERSKINE WOOD:

By that maneuver, you had indicated to the oil barge that he could keep the ranges?

A. Sir?

Q. By that maneuver, you had intended to indicate to the oil barge that he could have the ranges?

A. Well, I always give those fellows the ranges when I can.

Q. Captain Grunstad, what stage of the tide is it that the current sets down Clifton Channel?

A. Why, it is right after high water; it always has a tendency to set down that channel—Clifton Channel; of course after high water, take an hour, an-hour-and-a-half, two hours after high water quite a set-down down that channel.

Q. Until about two hours after high water?

A. About two hours, of course high water slack.

Q. Three hours after high water wouldn't have so much suck down there?

A. Yes, be until flood comes.

Q. The main current goes down the main river, of course?

A. No, has a tendency to go down Prairie Channel.

Q. The main river carries the bulk of the water, doesn't it?

A. No, Prairie Channel—well the deepest is in the main channel, of course,, but I say above Tenas Illi-hee Island, there is a tendency to set down Prairie

Channel.

Q. You think more water goes down Prairie Channel than the main river?

A. I say from that point; from Bugby Hole the current sets down that way.

Q. I am asking about the volume of water.

A. I don't know. I suppose the volume, probably, would be down the ship channel, being that is the deepest.

Q. Have you steered the Samson?

A. Sir?

Q. Have you steered the Samson?

A. A little, yes.

Q. How does she steer compared with the Kern?

A. Well, at that time, when I steered, we was towing these deep sea barges. They call them one barge.

Q. Does she obey her helm as readily as the Kern?

A. Yes, sir.

Q. If you, upon rounding the bend of Puget Island at Bugby Hole, steering a point from four to eight hundred feet out from the island, ran five minutes on a hard aport helm, what would you do? Where would you end?

A. Well, I would be further down the river.

Q. Five minutes on a hard aport helm on the Samson, starting from a point 400 feet from Puget Island shore?

A. There is a little curvature in the river there, and you couldn't put her ashore in a five minute run,

I don't think.

Q. You couldn't?

A. No, sir.

Q. Come very near it, couldn't you?

A. No, I don't think so.

Q. The Kern is owned by the same company as the Samson, isn't it?

A. Yes, sir.

Q. I would like to ask just this: I don't quite understand myself. When you come around that bend on the Kern, you give just a little port helm. Is that right?

A. I said after you leave the lower point of Coffe-pot Island, I get the main current, ship channel current, rather, from the starboard side, and it has a tendency to throw me toward Bugby Hole.

Q. That isn't my question. I asked in rounding Bugby Island—the bend there in Bugby, I ask whether you didn't on the Kern, give port helm for a little while, and then stop and steady her?

A. Yes, sir.

Q. You don't come around on port helm for any long time, do you?

A. We tow two barges, though.

Q. What?

A. We only tow two barges with the Kern.

Q. I ask what you do.

A. Have to hold port helm, certainly.

Q. Then you steady her?

A. Customarily do.

Q. You never give her hard aport round there?

A. Never had occasion to.

Redirect Examination.

Mr. MINOR: With your permission, I want to ask this witness about something. I don't know whether he can testify to it, or not, but I will ask the question.

Q. Captain Grunstad, did you ever tow oil barges?

A. Well, I never towed oil barges, but I have towed ships, loaded ships.

Q. What kind of ships?

A. Why deep sea vessels.

Q. A vessel of about the same capacity of the oil barge?

A. Yes, larger.

Q. And larger?

A. Draw more water.

Q. Do you remember you said you were with Captain Sullivan when he towed rock barges of the Columbia Contract Company?

A. Yes, sir.

Q. How are they as compared to the oil barge?

A. Well, they are smaller.

Q. Smaller?

A. I don't know their tonnage.

Q. Now, have you had much experience in towing heavy vessels?

A. Quite a bit, yes.

Q. Have you had such experience, Captain, that you can tell about how much to allow for the momen-

tum of such a vessel when you want to stop her?

A. Well, if you are going upstream, why, it all depends on the current, of course. But I should judge a two mile current with a load, a ship would travel about a quarter of a mile to half a mile with a tow boat hanging alongside.

Q. With a towboat hanging alongside?

A. Yes, sir.

Q. Against a two mile current, you say?

A. Yes, sir.

Mr. C. E. S. WOOD: Witness answered by anticipation, apparently, of the intent of Mr. Minor's mind, before the question was put. I desire to enter an objection. I don't think he is qualified as an expert to speak as to the oil barge. If it is intended to attack her steering method or handling. I think he should show some familiarity with her own personal idiosyncrasies, not in this general way.

COURT: I understand his testimony, this opinion he gives, regarding how far a vessel would go, a tow under those circumstances, to be general, and not pinned down to this particular vessel.

Q. Now, Captain, if you, from your experience in towing other vessels—if you were towing Oil Barge 93 up between the waters of Tenas Illihee and Puget Island, and had her going three miles an hour, and there was an ebb tide such as you remember on the 22nd day of July, 1911, and if that vessel was suddenly cut loose from your tow boat, how far, in your judgment, would she drift?

Mr. C. E. S. WOOD: Objected to as incompetent.

COURT: Objection overruled.

A. I should judge she would go all of a quarter of a mile.

Q. If just before she was cut loose from your tow boat—are you acquainted with the Henderson?

A. No, sir, I never worked on the Henderson.

Q. You have seen her?

A. Yes, sir.

Q. You know about what size boat she is?

A. Yes, sir.

Q. And you know she tows, do you, from what you have seen?

A. Yes, she is a fair tow boat.

Q. What?

A. Pretty good tow boat.

Q. Now, Captain, considering what you know about the Henderson, if the Henderson were towing as she was that night, the oil barge 93, and were at a speed of about three miles an hour, going through these waters, and the Henderson had backed for not exceeding one minute, how much would that affect the momentum of the oil barge if she were suddenly cut loose, and how far would she go after being suddenly cut loose, with that momentum?

Mr. C. E. S. WOOD: Same objection. How many minutes?

Q. Not more than one minute.

A. Wouldn't make any difference.

Q. Now, Captain, there was between the Hender-

son and the oil barge two after breast lines—two breast lines, I mean, which were, we will say, quarter inch cable—no, half inch cable—three quarter inch cable.

Mr. C. E. S. WOOD: Speaking about the barge?

Mr. MINOR: Yes.

CAPTAIN SHAVER: Pendants on the breast lines.

Mr. MINOR: The strength of the rope is her weakest place.

Mr. SNOW: That isn't redirect testimony.

Mr. MINOR: I asked leave to ask.

Q. Two breast lines, three quarter inch cable, a head line seven inch Manila with seven-eighths pendants, two after—two lines, stern lines, I believe they were the same size as the breast lines.

CAPTAIN SHAVER: Same size as the head lines.

Q. Same size as the head lines, and your tow line, I believe, was one inch cable. Now, if those lines were all parted suddenly from the oil barge, and the Henderson, parting these two vessels by a blow, how much, in your judgment, would that retard the momentum of the oil barge, and how far do you think she would go under those circumstances?

A. Well, I don't think it would have any check on her at all.

Mr. C. E. S. WOOD: Same objection.

Q. Don't think it would have any check on her at all?

A. No, sir, positive.

Mr. SNOW: Is there anything that will check her?

A. Sir?

Q. Is there anything that will check her?

A. Anything that will check the oil barge?

Mr. SNOW: Yes.

A. If you back on her long enough, and the lines don't part, you can check her.

#### Recross Examination.

Questions by Mr. C. E. S. WOOD:

How much would the severing of those cables by the force of impact, check the impetus of the Samson and three rock barges?

A. I didn't catch that.

(Question read.)

A. I don't know as it would have any.

Q. You don't know as it would have any? You think it might have some?

A. Hardly.

Q. And what effect on the Samson and the three rock barges would her backing for a minute or so have?

A. Well, it wouldn't have a great deal.

Q. Not a great deal. It would have some, would it?

A. Well, the Samson is a pretty powerful backer. She would certainly check them a little bit.

Q. Much more powerful than the Henderson? More powerful boat than the Henderson?

A. Well, I don't know as to that.

Q. And how far would the Samson and her flotilla, going down as they were that night, with the tide and the current, run after they had started to back?

A. She will go quite a ways if nothing to hinder them in that current.

Q. About how far would she run?

A. She would swing around before she would go very far.

Q. Why?

A. Because a screw boat backs to port.

Q. And how far, in your opinion, would she have to run while she was backing before the swinging to port would have any perceptible effect?

A. The minute you start to back with a screw boat, they begin to swing immediately.

Q. Well, can you tell me about how far you think she would run under this backing bell?

A. Well, if there was nothing to prevent her—if there was something to prevent her from swinging, the chances are she would go probably half a mile before she would check up against the current—backing against the current.

Q. Suppose she only backed for half a minute or so, say half a minute to a minute, and then shut off?

A. Wouldn't have any on her.

Q. What?

A. It wouldn't have any tendency to stop her at all.

Q. Then how far would she run, going down on

that tide?

A. After she stopped?

Q. After they stopped backing, yes.

A. Well, with that tide she would keep agoing a long ways. The chances are she would fetch up some place.

Q. That is it exactly. Go until she fetched up.

Witness excused.

THOMAS E. PARKER, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Mr. Parker, what is your business?

A. Mate of a boat, sir.

Q. How long have you been a seafaring man or a river man?

A. Oh, fifteen years, off and on.

Q. And what boats have you been on?

A. How, sir?

Q. What boats have you been on?

A. Well, I have been on the Hassalo, the Undine, Lurline, the Walker, the Hercules, the Samson, and the Kern.

Q. Were you on the Samson the night of the collision?

A. Yes, sir.

Q. On the 22nd day of July, 1911?

A. Yes, sir.

Q. Where were you at the time the accident hap-

pended? That is to say, were you on duty or not?

A. I was up on deck, sir, on the port side after the house.

Q. Were you on duty?

A. No, sir.

Mr. C. E. S. WOOD: Let me interrupt. I am not certain whether it appears from your direct examination whether Mr. Grunstad is still working for the company.

Mr. MINOR: I think he is, but I am not certain.

Mr. C. E. S. WOOD: I will ask him where he sits. You are still working for the Columbia Contract Company? (To Mr. Grunstad.)

Mr. GRUNSTAD: Yes.

Q. Where were you, did you say, at the time of the accident?

A. At the time of the collision, I was on deck, port side, aft the house.

Q. Port side, aft the house, on what boat?

A. On the tug Samson.

Q. How long had you been there?

A. Just on the instant the collision happened, sir.

Q. Where did you come from when you got there?

A. Come from bed, sir.

Q. Was that above or below?

A. Below, sir.

Q. Did you see the collision?

A. Yes, sir.

Q. I wish you would tell the court what you did see.

A. When I got out on deck, sir, I seen the port barge, port rock barge strike the oil barge, on the bluff of the bow, right underneath the rigging, and glanced off, and at that time, why, the Henderson's lines had parted, and she went down against the Henderson. Then I walked across on the other side, and went down the hold again to dress.

Q. What part of the Henderson did she strike?

A. The stem of the Henderson, sir.

Q. Now, when you saw the rock barge strike against the stem of the Henderson, what became of the oil barge the Henderson was towing?

A. The oil barge, as soon as she struck, why, went right along.

Q. What became of the Henderson?

A. The Henderson stayed right there, sir, for the moment I seen her, for the second.

Q. Did you hear any signals that night, passing between the Henderson and the Samson?

A. I heard one whistle.

Q. You did hear one whistle?

A. Yes, sir.

Q. From which one was that?

A. From the Samson's whistle.

Q. How long was that before the collision?

A. Just a couple of seconds, I should judge, more or less; not a couple of seconds either. I guess about three or four seconds, probably.

Q. Was that before you were awake?

A. That waked me up.

Q. Now, did you hear any bells?

A. Yes, I heard the backing bell.

Q. Heard the backing bell?

A. I heard the two backing bells.

Q. Where did you go after the collision?

A. After the collision from the port side, I went over to the starboard side, then came back and went down in the hold and dressed.

Q. Down in the hold and dressed?

A. Yes.

Q. Then what did you do?

A. When I got up on the deck, went for the life boat immediately.

Q. What did you do then?

A. Went over to the wreck, sir.

Q. Of what?

A. Wreck of the Henderson.

Q. How did you go? In front of the Henderson?

A. Launched a boat and right there went around the barges.

Q. Behind the Henderson?

A. Launched as quick as we could and went over.

Q. Did you see the oil barge as you went over?

A. No, sir.

Q. Was she next to the Henderson then?

A. No, sir; I never seen the oil barge after she hit.

She went right along.

Q. What did you do after you went over to the Henderson?

A. Commenced taking people off the hull of her.

Q. Yes.

A. Then after we got some of them off—there was a couple of ladies there that were on the boat, and I took my overcoat off, or my coat off, and gave it to one of them. And then I asked the fishermen to come up along the side there, and I asked him if he wouldn't kindly take the ladies over. They were in their night clothes. He said he would, and I took some men over, and went to the Samson.

Q. What boat got to the wreck first?

A. Samson life boat, sir.

Q. The boat you were in?

A. Yes, sir.

Q. How long after you were there before any fishermen got there?

A. I was there quite—well, about a minute anyway I should judge: possibly just about, approximately, about a minute. I couldn't say to the instant.

Q. How long do you think it was after the collision before you reached the Henderson wreck?

A. Well, I couldn't say, but approximately, I guess it might have been ten or fifteen minutes. I aint sure. I wouldn't say for sure.

Q. How far do you think you were when you started over from the Samson to where the wreck was of the Henderson?

A. Only took us just a few minutes. I guess approximately about 75 feet at that time.

Q. You guess about that?

A. Yes, I guess so. I don't know.

Mr. ERSKINE WOOD: Repeat the question.

Mr. MINOR: I asked how far he went from the Samson to the Henderson. He said he didn't know. He approximated it at about 75 feet. At least that is what I understood your answer.

A. Yes, sir.

Q. Now, after you had taken these men to the Samson, what did you do then?

A. After took them, went back over and got a line put on them.

Q. Got a line on the Henderson?

A. Yes, sir.

Q. Then what did you do?

A. Then I went back over to the boat, sir.

Q. Over to the Samson?

A. Yes, sir.

Q. Then what did you do?

A. Then I got ready to give the people what aid I could in making coffee, and getting clothes up from the hold, and fixing them up so they wouldn't be half naked.

Q. What did you do after that?

A. After that then I just stood around, didn't do anything else but do that and took up my time doing that, and fixing the dishes and cleaning them up and feeding them.

Q. Were you present the next morning when the Samson picked up the barges?

A. Yes, sir.

Q. Which one did she pick up first?

A. Which one? I couldn't say. I think we picked up the lone barge first.

Q. Was the barge anchored when you picked her up?

A. Yes, sir.

Q. Do you know the waters down there? Do you know the lands and waters down there at that point of the river?

A. Well, I know them fairly well, sir.

Q. How long have you been operating through there?

A. Let me see. Well, all of the time I have been on the river, almost.

Q. Do you know Puget Island?

A. Yes, sir.

Q. You know Tenas Illihee Island?

A. Yes, sir.

Q. Do you know Bugby Hole?

A. Yes, sir.

Q. Do you know Prairie Channel or Clifton Channel?

A. I don't—I never took a ship down it, but I know where it is.

Q. Now, I will ask you to locate this lone barge that you picked up, from the Puget Island shore.

A. Well, it was down close to the end of the island, about, I should judge, about 200 feet out in shallow water. That is, we stirred up mud when we got it.

Q. How far was she from the Puget Island shore, do you think?

A. I think about approximately about 200 feet. I wouldn't say for sure.

Q. And were you present when the other two barges were picked up?

A. Yes, sir.

Q. Did you see where they were?

A. Yes, sir.

Q. Were they anchored?

A. Yes, sir.

Q. I wish you would locate the two barges from the Puget Island shore?

A. They were about up near the little slough.

Q. The little slough?

A. Yes, sir.

Q. And how far were they from the shore line of Puget Island?

A. They were about, approximately about 200 feet off.

Q. You spoke about little slough. What do you mean by little slough?

A. That little slough, little creek down from that other little slough on the point.

Q. How many sloughs do you remember on that Puget Island?

A. Two slough I remember—a big slough and a small one.

Q. This slough you speak of now is the small one?

A. Yes, sir.

Q. Do you recollect whether any piling or anything of that sort driven in its mouth?

A. I have a faint recollection, but I could hardly describe them, because I never took much attention to them.

Q. I wish you would tell me, as nearly as you can, where the point of collision between the Samson and her tow, and the Henderson and her tow, took place; locate it from the Puget Island shore.

A. I think it took place about 500 feet off, sir.

Q. And along what part of Puget Island shore do you think it was? Opposite what point?

A. About opposite, pretty close to where the two barges were anchored.

Q. Above them or below them?

A. It would be above them.

Q. How much do you think above them?

A. Well, I should judge it would be about—well, about probably, half between them, the big and little slough, around in there. I wouldn't say for sure, but I think around in there.

Q. Do you know where Ostervolt's house is there on that beach?

A. No, sir, I don't.

Q. Do you know where his seining ground is?

A. I have heard them speak of it a great deal but I don't know where it is. That is, I couldn't tell you where it was.

Q. When you noticed the collision, or came out at that time and observed the collision, did you observe which way the Samson and her barges were pointing, or heading?

A. Seemed to be pointing in toward the lower end of the island.

Q. The lower end of Puget Island?

A. Yes; they seemed to be in that shape.

Q. Did you hear any orders given from the Henderson or the oil barge?

A. I did not, sir.

Q. Did you hear the anchors run out on the oil barge?

A. No, sir.

Q. If the anchors had been hoisted, or any order had been given to let go the anchors at the time that you were on the port side of the Samson, would you have heard it?

A. Well, I probably would have heard it all right, but I didn't hear anything.

Q. Was there any noise from steam escaping on the Henderson?

A. I didn't hear any, sir.

Q. Now, I will ask you whether or not you examined these barges after they were picked up?

A. Yes, sir, I examined one of them.

Q. Which one did you examine?

A. I examined the port rock barge.

Q. Port rock barge?

A. Yes, sir.

Q. I wish you would tell the Court what you found.

A. Well, I wouldn't say for sure just how many feet it was, but it is six or eight feet, I should judge,

from amidship on the barge why, it was cut in; just looked like the stem of the boat had been fastened in there. The timbers were all broken, about in that way (indicating). I don't know anything about it.

Q. Did you notice anything else on the opposite side?

A. What is that?

Q. Did you notice anything on the opposite side?

A. Well, a very little bit of the opposite side where it was mashed up—where it hit the other—came in contact with the oil barge.

Q. Have you ever examined that barge before?

A. Yes, sir.

Q. When did you examine that barge before?

A. I examined when she came down before, and when we went up.

Q. When you went up?

A. Yes, I generally almost always examine all the barges at night or in the afternoon, or when we get ahold, and go up the river, I always take a lantern and go down the hold and see how they are, and ask the barge man how his barge is. See what they are, and in what condition they are in.

Q. That barge was No. 9, I understand.

A. I couldn't say for it what the number was.

Q. It was the port barge—

A. Port rock barge.

Q. Of the Samson's tow that night?

A. Yes, sir.

Q. What was its condition at the time you ex-

amined before? Did she have these marks on it, or not?

A. No, sir; she was in first class condition, sir.

Q. How did you happen to examine it this time after the accident?

A. I went out to see just what it was. I knew she hit, and I didn't know just what damage was done, and whether she was going to sink or not, so I went out to look.

Q. Do you remember whether you examined the middle barge the next morning?

A. Well, I didn't examine it myself until about—my attention was called to it about somewhere around eight o'clock; around there some time when we were under way.

Q. Yes.

A. And I went out and examined it.

Q. How was your attention called to it?

A. The barge man came and told me the barge was leaking, and I went out and looked at it.

Q. What did you find?

A. Found her leaking; one of the planks was stove in, and I think one rib, or two ribs was broken in, was leaking pretty bad. This was the middle barge.

Q. Mr. Parker, were you on duty when the barges were picked up that night?

A. Yes, sir.

Q. Did you see them when they were picked up that night?

A. Yes, sir.

Q. Tell the Court what lights, if any, they had on them when you picked them up.

A. There was a white light on the port side, and also a white light on the starboard side, on the outside barges.

Q. On the outside barges?

Mr. ERSKINE WOOD: Do you mean those lights were there when you picked them up after the collision?

A. This was before, I understood, wasn't it?

Q. I asked before. You didn't go to these barges any more that night, after the collision? You didn't go to them any more that night?

A. No, sir.

Q. You didn't see them any more after you went out to the Henderson until you went to them the next morning?

A. Until we picked up the tow the next morning.

Q. Did you go to the oil barge the next morning?

A. Yes, sir, went up alongside of her.

Q. Where was she anchored, as nearly as you can remember?

A. She was anchored right out under the bluff, seemingly.

Q. Under the bluff?

A. Yes, under the bluff, down below a little.

Q. And could you define the place any more definitely than that?

A. Well, she was headed low down, and her stern had swung quite a ways down like as if she was

going into the other channel.

Q. Which channel do you mean?

A. Down Prairie Channel. She was way down in there.

Q. Did you look at the oil barge to see whether she was injured at all, or not?

A. No, sir.

Q. How was the current that night? Do you remember?

A. The current?

Q. Yes.

A. The current was—fairly good current running.

Q. Now, did you notice the ranges there? Do you know the Hunting Island ranges?

A. Yes, sir.

Q. Did you notice the ranges there that night?

A. Yes, sir.

Q. When did you notice them first?

A. Noticed them when we went in the small boat to go over to the Henderson.

Q. Now, when you got in the small boat to go over to the wreck, which side of the ranges were you on?

A. Upper side.

Q. Is that Puget Island side, or Tenas Illihee Island side?

A. Yes, sir.

Q. Which one?

A. Towards the Puget Island side.

Q. You went over to the Henderson?

A. Yes, sir.

Q. You say at that time you think the Henderson was about 75 or 80 feet away?

A. Just about that, approximately.

Q. Was the Henderson at that time—did you notice when you got there, if she was above or below the range lights?

A. She was above the ranges then, sir.

Q. Did you notice it then?

A. Yes, sir.

Q. Did you hear the rock barges anchor that night?

A. No, sir.

Q. Didn't hear them anchored there?

A. No, sir.

Q. You were over at the Henderson at that time?

A. I was over at the Henderson.

#### Cross Examination.

Questions by Mr. C. E. S. WOOD:

Mr. Parker, what was your job that night on the Samson?

A. Mate, sir?

Q. Are you still working for the Columbia Contract Company?

A. No, sir.

Q. Where are you working now?

A. Working for the Parker House Hotel, at Astoria.

Q. And you say that your first alarm was from the alarm signals or bells?

A. The whistle. I heard the whistle.

Q. Is that what wakened you up?

A. Yes, sir.

Q. You weren't wakened up by the alarm bells rung from the pilot house?

A. If they did come in, they come in later, for just as soon as I heard the whistle and that bell, I run right up.

Q. The whistle and what bells?

A. The bells—the backing bells.

Q. You hadn't heard the first passing whistle, up the river?

A. No, sir, I didn't.

Q. Now, as soon as you heard that whistle, and the backing bell, you jumped out of your bed, as I understand?

A. Yes, sir. I jumped right out of bed, and went right up on deck.

Q. Went up on what deck?

A. The main deck.

Q. So your bunk, or bed, is down underneath the main deck, is it?

A. Right underneath the stairway leading down, and my bunk is right over the port side.

Q. How far from the bow of the Samson?

A. I don't sleep up in the bow at all, sir. I sleep back aft.

Q. I know. I want to get an idea about how far from the bow your bed was.

A. From the bow of the boat?

Q. From the bow of the boat, the Samson. You know her length, don't you?

A. Well, I don't know exactly there, but I am way back aft, anyway.

Q. Can you approximate from her length about the distance away?

A. Let's see. She is about 120 feet long, I guess. Then I guess I would be about a hundred and—oh, about a hundred feet anyway, approximately.

Q. Then, as I understand it, you ran up the staircase, and went forward?

A. Oh, no, no, sir.

Q. What did you do?

A. I came up the stairway and on deck, and all I had to do was to go about eight or nine feet over to the rail.

Q. Of the Samson?

A. Yes.

Q. And was that clear of the stern of the port barge where you were? The Samson was pushed up in between the port and starboard barge—

A. Yes, sir.

Q. (Continuing) Wasn't she? Now, where you went to her rail, was it at that part of the Samson that was clear of the barge?

A. Yes, it was right after to where the barge was tied up.

Q. So that you weren't on the barge, but you were on the Samson?

A. On the tug Samson.

Q. And then you were on the main deck, near the rail?

A. Right near the rail, sir.

Q. On the main deck, near the port rail, and how far did you have to go to get there from your bed, or staircase?

A. Well, let's see. It is about, oh, I guess, approximately all together, I guess it would be probably about 20 feet all together.

Q. And just as you get out on the rail, the crash occurred?

A. Yes, sir.

Q. And did you notice at that time which barge of your flotilla hit the Henderson and the oil barge?

A. Yes, sir; the port barge hit the oil barge right under the rigging. Right the bluff of the bow, and then slid right on down, and hit the Henderson's stem.

Q. Then you don't mean, I guess, exactly, that you just got there as the crash came?

A. I got there right at the rail just as they got together, just looking over, and I saw them come head together.

Q. How high is the deck at the rail where you were standing above the water?

A. Well, above the water?

Q. Yes.

A. Well, let's see; I guess it would be—we might call it a little over, oh, about six feet approximately.

Q. Above the water?

A. Yes, sir.

Q. And how high was the deck of the barge, the port barge above the water?

A. Well I guess it would be about, approximately, oh, two feet, I should judge. Maybe not that much.

Q. How high was the stone piled on the barge?

A. Some places they were piled pretty high, and other places they were piled pretty low.

Q. How high was the highest place on the port barge, about?

A. I don't know that I could tell about that.

Q. How high up above the deck?

A. I should judge some place about six or eight feet, approximately.

Q. Now could you see from your position past this mass of rock, and see the bow of the port barge?

A. Yes, sir. That is, I could see the barge when she struck.

Q. What part of her struck the oil barge?

A. The luff of the bow, seemingly. Just about right here.

Q. I hand you three wooden models. Do they look fairly like the rock barge model, model of the rock barges?

A. The bows were made a little bit different. This one here is a pretty good model of it. That is a very good model. You see, all their bows slope up shovel fashion.

Q. The one marked 142 x 25—35; what is that—25 or 35?

A. 35, I think, sir.

Q. 142 x 35, you say, is a pretty fair model of it? Now, they go down the fashion of the tow—the fixing of the tow was something like this, wasn't it? I show you a small wooden model marked "Samson," and she went up between the two outside barges like that (arranging models)?

A. Yes, sir.

Q. Now, indicate on the port barge which part of her hit?

A. Right here, sir.

Q. That is just at the pound or bluff of the port bow?

A. That is what I call the luff, on the wooden model.

Q. Indicate it on there with that pencil, will you?

A. Right about there.

Q. All right; the point marked "TP" that is about right?

A. Just about there, approximately about there.

Q. Now, where were you standing on the Samson?

A. Say here is the rigging; right here (indicating).

I was standing there.

Q. Standing at the cross marked "TP" on the wooden model. And you think from there you could have seen up to that point?

A. Yes, sir.

Q. Through the mass of stone?

A. No, the stone wasn't so high right there. I could see through there.

Q. What was the height of the stone?

A. The height of the stone would be about here, and a little bunch here and I could see over it. (Indicating).

Q. What was the height of the stone at that place?

A. The biggest height I think, was right about here. That is just about approximate.

Q. Approximately at the point "A" on the wooden model, "A TP", and then where was the next highest point?

A. About in here.

Q. "B". And how high was it piled at those points?

A. Well, now, I couldn't say for exactly.

Q. Just guess at it. You were the mate.

A. Might have been six or seven feet, approximately.

Q. Now, you have given the highest point of piling. Then it sloped off to the side of the barge?

A. Some places it sloped down, and other places big rock there. The surface was jagged.

Q. You have given this as the highest point.

A. Yes, sir, I have given that approximately the highest, because I never measured, you know, and I am not sure of it.

Q. Now, then, as I understand it, you say the point that we have marked hit the oil barge first?

A. Yes, sir.

Q. Then where—what did the port rock barge, your barge, what did she hit next?

A. After she slid alongside the oil barge, she hit

the stem of the Henderson.

Q. And where did she hit the stem of the Henderson on the barge?

A. Let me have your pencil. Right about in here (Indicating).

Q. Well, the groove marked "C" on the wooden model.

A. About six or eight feet, I should judge it was. I aint sure.

Q. Now, did you see that hit also?

A. I seen the stem hit there.

Q. And you are sure that that is the second thing that happened after the bulge of the bow hit the oil barge?

A. Yes, sir.

Q. She came next down on there?

A. Next down on there, sir.

Q. And was that before you heard the crash of the collision, or at the same time?

A. Oh, no. When she came in—when she came in here, then the first impact came, and she slid along, and then hit again, and hit again. And it was the Henderson that struck her.

Q. So the hitting on the stem of the Henderson was really the first collision with the Henderson of any of the barges?

A. For this barge here hit the oil barge first, and then slid down and then hit the Henderson.

Q. Yes, but the first place any of your rock barges hit the steamer Henderson, was when this port rock

barge hit the stem of the Henderson?

A. Well, this barge—I never seen that barge strike at all.

Q. You don't know anything about the middle barge?

A. I don't know anything about the middle barge, sir, at all.

Q. What are your duties on the Samson?

A. Mate, sir.

Q. I know your duty is as mate. What are your duties as mate?

A. Looking out for the ship, and looking out for the gear, and have charge of the main deck, sir.

Q. You never made any particular study, have you, of the flow of the river, and the currents down there?

A. No, I never have, sir. I have seen. I know the way the current seems to run; that is in my imagination. I don't know otherwise.

Q. Never made any special study of it?

A. No, sir, only from what I have seen. Just looking at the stuff pass by.

Q. I show you a rough sketch here marked "Oil Barge 93," and a sketch of the Henderson alongside her. I wish you would show me now the line at which your barge hit the oil barge. The angle she came in on her.

A. Here is the rigging; seemed to hit like that; that is to the best of my knowledge. That is the way she seemed to hit (indicating).

Q. That was barge 9, wasn't it?

A. Why, I aint sure.

Q. Don't you remember your numbers? That is the port barge.

A. Port barge, sir.

Mr. C. E. S. WOOD: I offer that and the model as illustrating this examination.

The sketch marked "Libellant's Exhibit 20."

Mr. C. E. S. WOOD: All three models of barges and the Samson model.

Samson model marked "Libellant's Exhibit 21-a."

Barges marked "Libellant's Exhibits 21-b-c-and d."

Q. Now, Mr. Parker, with your coming out there, just practically we might say, at the time the crash happened, with steam bursting, you weren't noticing everything that happened at that time. You don't know whether the oil barge let her anchors go, or not, do you?

A. No, sir; I don't know whether she let them go, or not.

Q. And they might have dropped them in that noise and confusion, and you not have heard it. Isn't it possible?

A. Might have done that, sir.

Q. I want now just to call—I would like to get you to repeat again, so we can follow it up, what you did, briefly, until you got into the life boat, and had the launch on the water.

A. You mean from the first of it up to that time?

Q. Yes. I want to follow you for the purpose of

seeing how long a time it would take.

A. Well, when I heard the whistle, and then heard the bell, I jumped up; didn't wait for anything. Went right on deck.

Q. I don't want anything about distances; just say I went here and there—that is all I am after.

A. From the bunk, I jumped to the companion way ladder, jumped out the companion way ladder, turned around, and went right over to the side, and right over this way.

Q. And you stayed there until after the collision hapened?

A. I just stood there until I seen the Henderson when she kind of broke away from the oil barge, and the oil barge came on, and I went right over to the starboard side.

Q. Of the Samson?

A. Of the Samson.

Q. Then what did you do then?

A. Went right back down the hold, and dressed quick as I could.

Q. Put all your clothes on?

A. Put all my clothes on.

Q. And came up again to the main deck?

A. Yes, sir.

Q. Where?

A. For the life boat.

Q. For the life boat?

A. Yes, sir.

Q. Where was the life boat?

A. They were lowering it down and I jumped out on barge to take the life boat.

Q. Somebody had already commenced to lower down?

A. Yes, sir.

Q. You got in the lifeboat?

A. I launched it, and then we got in.

Q. And you think by the time you got it in the water, would be ten or fifteen minutes from the collision?

A. Well, I don't know. It is approximate.

Q. I understand that. And then you went directly with the boat to the Henderson?

A. Right directly to the Henderson.

Q. And she was about 75 feet away?

A. I should judge, approximately.

Q. And was at that time above the Hunting Island range light?

A. Yes, sir.

Q. In what depth of water, have you any idea?

A. No, sir.

Q. Was she careened over?

A. She was careened over, sir, and fell on her bottom.

Q. Fell on her bottom?

A. Yes, sir.

Q. And you helped to take people off?

A. I did, sir.

Q. They all got off at that time? Nobody left on her?

A. They all got off; just as soon as they got in the boats.

Q. Did she change her position after that?

A. Just was wiggling back and forth.

Q. But remained practically near that same spot?

A. I don't know.

Q. You said you saw the oil barge go rapidly by you?

A. Yes, sir; she passed.

Q. You don't know whether that was the oil barge going rapidly by you, or you going rapidly by the oil barge, do you?

A. I couldn't say, but I know the oil barge passed us.

Q. Or you passed it, either?

A. Yes, sir.

Q. At considerable speed?

A. Yes, sir.

Q. Did you say that in your estimation, the collision occurred about 200 feet off Puget Island shore?

A. No, sir; I said the barges were anchored about that, approximately.

Q. About approximately, about how far off the Puget Island shore was the collision?

A. I think it was about 500 feet, sir.

Q. The Samson and her tows were headed in what direction?

A. In towards the island.

Q. And pointing upstream more, or downstream more?

A. The bow of the boat pointed—

Q. The bow of the Samson and her barges pointing in towards Puget Island—downstream more or upstream more?

A. Kind of downstream. Here is the foot of the island. She was kind of pointing towards that.

Q. Towards the island downstream?

A. Downstream.

Q. Then you say, after the collision, what happened to the Samson and her float then?

A. And the barges?

Q. Yes.

A. I paid no attention to her, for I went right over to the Henderson.

Q. You don't know whether swung more around or not?

A. I couldn't say, sir couldn't say a thing, sir.

COURT: This boat you lowered—which side was she lowered on?

A. On the starboard side, sir.

Q. I will ask one question: You are a mate and familiar with the channel and the river there, are you, somewhat?

A. Somewhat, yes, sir.

Q. What would be the depth of the water at that point where you say the collision took place, 500 feet from the shore of Puget Island?

A. Well, I should judge it would be about probably, about 25 or 30 feet, probably; I don't know—approximately.

Q. Then if it turned out to be 20 feet or less, she couldn't have been at that point with the oil barge drawing 20½ feet, could she?

A. I couldn't say to that.

Q. If it was only 20 feet, she couldn't have been there—well, that is argument.

Questions by Mr. ERSKINE WOOD:

Was this dent in the starboard of barge nine a sharp dent or a pointed dent?

A. It was kind of mashed, but with bows' mark imprinted about the middle of it.

Q. Was it a sharp dent, or a rounding dent?

A. A sharp dent; just like the bow of a boat ran into something soft, like mud.

Q. And how deep did it cut in?

A. About to, approximately—I don't know. I never measured it.

Q. Just describe the injury on the port bow of that barge to me, a little more fully.

A. It was kind of puffed up, mashed up—kind of pushed up, the wood was.

Q. Pushed up by the ribs?

A. By the under timbers, kind of luffed.

Q. How much was it pushed up?

A. About, probably, a couple of inches more or less. I didn't measure.

Q. Was it mashed through?

A. No, sir; didn't seem to mash.

Q. Were the ribs cracked?

A. I never looked at the ribs down in there.

Q. You don't know whether cracked or not?

A. No, I don't know whether cracked or not.

Q. Which way did the Samson take up the stone barges the next morning? Which side of them did she run?

A. Which side of them?

Q. The two stone barges?

A. Now, my golly, you got me. I don't know. I forget which side we did take it on.

Q. You don't know anything about that?

A. No, I forget now which side we did take on, which side we put it on.

Mr. C. E. S. WOOD: I would like to show by this witness that these stone barges were great heavy massive structures for crossing the bay, and carrying rock over to Fort Stevens. Isn't that so—great heavy stone barges?

A. Yes, sir.

Witness Excused.

COURT: The trial will be resumed Tuesday morning at ten o'clock, with the understanding that Tuesday is probably all the time that the Court can give to the hearing of the case, and will have to refer it for taking any further testimony. If we don't get through and counsel will stipulate for a night session, we will hold court Tuesday night.

Mr. SNOW: Will you have the assistant engineer here Tuesday?

Mr. MINOR: I will, if I can get him. If he had understood, he would surely be here. Mr. Wood

said he didn't need him.

Mr. C. E. S. WOOD: No, I said I probably led him into an error. These are the facts. He was asked about that wreck, and we wanted him here. There was another fact I wanted to discuss with him, and to relieve his embarrassment, I said on that point I will not call you. That is all I said. I didn't relieve him.

Mr. MINOR: I didn't understand. I asked the redirect questions, and he is gone.

COURT: Well, probably some other witness here knows where he is stopping, and can probably get him here by Tuesday.

Mr. SNOW: The witnesses ought not to leave until excused by court or counsel. I hope he will be here, for we want to examine him.

COURT: If you think the matter is important, and he is not here, that may be included in any references made.

Mr. SNOW: We can't refer that. We have to have the witness here.

Mr. C. E. S. WOOD: Couldn't the Court make an order that he return here for further examination. That order can be served.

COURT: Under the circumstances, and your own admission, I don't think that the Court would be inclined to make an order that he be required to return here at claimant's cost.

Mr. C. E. S. WOOD: I don't care anything about that, if I am in fault on that, but mind you, I can't

bind Mr. Snow.

Mr. SNOW: I think I am a figure head in this case. I hope I am. But I have some rights in this court, and I insist upon them.

COURT: I don't understand that there is any question about that.

Mr. C. E. S. WOOD: As far as I am concerned, I am perfectly willing to submit to this question of cost, if that is equitable. But I never intended to let the man go entirely; but I don't care anything about the money cost.

COURT: You may take an order requiring him to be here at ten o'clock, and submit the order to the Court for signature. That would be the effect of subpoena, at libellant's cost.

Whereupon proceedings herein were adjourned until Tuesday, January 14, 1913, at 10 o'clock A. M.

Portland, Oregon, Tuesday, January 14, 1913, 10 a. m.

HANS JENSEN recalled by the Libellant.

#### Cross Examination.

Questions by C. E. S. WOOD:

Mr. Jensen, I show you the log of the Steamer Samson, for Saturday, July 22, 1911, and ask you if the entries in there were made by you.

A. Yes, sir.

Mr. MINOR: I don't think it was all made by him.

Q. Well, look at it and see.

A. Well, this part of it wasn't; you see not on the

22nd; you see I went off watch at six o'clock in the morning; here is where my entry begins. You see I went on watch at 12 o'clock and the first time set on it is 1:40, and went off watch again at six o'clock. Here is where the chief's—from here to there.

Q. From the commencement of the entry down to the figures "5:40"?

A. Yes, sir.

Q. From the commencement to 5:40 is yours?

A. Yes, sir.

Q. Now, you say "port barge struck by steamer 1:40". Do you refer by "steamer" to the Henderson?

A. Yes, sir.

Q. When were the words "port barge" so entered?

A. Well, that was a long time—long enough time after the accident so I had looked out then and saw that the port barge had broken away from the tow.

Q. And it was not made from any information given you by others, but from your own observation?

A. My own observation, yes.

Q. When was the interlineation "port barge" made with reference to the general entry. You see this seems to have been added later?

A. Yes, I put that in there afterwards.

Q. How much after?

A. I don't remember that now, but I think it was half an hour, or an hour, or such a matter.

Mr. C. E. S. WOOD: We offer that portion of the log referred to by him. I will read it into the record.

The log is form and words, as follows:

"JULY.

"Sat. :

22 : Port Barge  
: /Struck by steamer 1:40;  
::: Backed away from barges 1:54  
: Went up to sunken steamer to pick up crew  
: and stand by left wreck 2:19 up to wreck  
: again 2:25; stood by till 4:00. Put Henderson's crew aboard Standard Oil Barge No. 93 at 4:10; began picking up rock tow 4:25;  
: tow made up and under way 5:40; Arrived  
: at Fort 10:40. Put barges in lift 11:40;  
: Arrived at S. O. Dock Astoria 12:15; took  
: fuel oil; moved to Mock Dock and tied up  
: 1:45."

Questions by Mr. SNOW:

Do you know Captain Hobson of Astoria?

A. Yes, sir.

Q. One of the pilots there?

A. Yes, sir.

Q. Have you talked with him since the collision between the Samson and the Henderson, about the facts of the Samson and the collision?

A. As near as I can recollect, I think I have.

Q. Now, Captain Jordan was in the habit, was he not, of going down into the galley and cooking something to eat, say from the time he came on watch at 12:20 and one o'clock or 1:40? Cooking something

and eating some supper?

A. I don't know whether he was or not.

Q. Did you state to Captain Hobson in a talk about the collision between the Samson and the Henderson, that Jordan was not in fact in the pilot house that night?

Mr. MINOR: State the time and place.

Q. Do you remember discussing with Captain Hobson the subject of the collision between the Samson and the Tillamook?

A. I don't remember that, no, sir, but we discussed the subject of the collision between the Tillamook and the Samson.

Mr. C. E. S. WOOD: You mean the Tillamook?

A. Yes, sir.

Q. Shortly after this accident happened, some little time after, there in fact had been some collision between the Samson and the Tillamook, had there not?

A. Yes, sir.

Q. Did you not say to Captain Hobson at Astoria in discussing the subject of that collision that Jordan was in fact not in the pilot house the night of the collision between the Henderson and the Samson?

A. No, sir.

Mr. MINOR: I wish you would state the time and place.

COURT: Better fix it as nearly as you can, and fix the place in Astoria.

Q. Well, the conversation to which I refer, Jen-

sen, the conversation which you say you had with this Captain Hobson about the collision between the Samson and the Henderson—you remember talking with him, do you, about that?

A. I don't remember the time, the exact time and place, no, sir, but we may have talked it.

Q. Well, did you talk with Captain Hobson about the collision between the Samson and the Henderson?

A. Yes, sir.

Q. And you talked in Astoria, did you?

A. Well, I couldn't say as to that; I don't remember where it was, whether on the Samson, or in Astoria, or where.

Q. Shortly after this collision, at Astoria, on one of the docks there at Astoria, at the time of the collision, between the Samson and the Tillamook, did you not talk with Captain Hobson about the subject of the collision between the Samson and the Henderson?

A. I may have, yes, sir.

Q. Did you say to Captain Hobson on that occasion, and at that time and place that Jordan was not in fact at the pilot house that night?

A. No, sir.

Q. Did you say to Captain Hobson that Jordan was in the habit of going down and cooking something to eat about the time of that collision?

A. I don't think I did.

Q. Did you say anything to Captain Hobson from

which he might infer that Jordan was not in the pilot house at the time of that collision?

A. I may have said something to that effect, because there was lots of gossip going around, more or less.

Q. What did you say to Captain Hobson then, on that question?

A. I don't remember that.

Q. You may have said something to that effect then, from which he might infer Jordan was not in the pilot house at the time of that collision?

A. If I did, it was gossip, because I don't know positively whether Captain Jordan was in the pilot house or not on that night, because I did not see Jordan that night until after the collision—after the accident. I came on watch without going forward.

Q. Did you say to Captain Hobson at the time and place I have mentioned, that Jordan was in the habit of going down into the galley and cooking something to eat about the time that collision took place?

A. How is that question?

(Question read.)

Mr. MINOR: Do I understand nobody was present but Captain Hobson and the witness?

Mr. SNOW: I don't know as to that, Mr. Minor. I will let this witness say.

A. Well, I don't remember it.

Q. Is it not a fact, Mr. Jensen, that Jordan was in the habit of going down and cooking something for himself or the wheelman and yourself, about the time

that accident took place?

Mr. MINOR: I object as incompetent.

COURT: Objection overruled. Mr. Snow, you mean by your question, if he was in the habit about that time of the night, of going down?

Mr. SNOW: Yes, that is what I mean.

A. I don't know; only on one occasion that I have seen him in the galley that I can remember.

Q. What time was that?

A. I couldn't say as to that, but it was while he was on watch, but as to the time, I couldn't say as to that. I don't remember that.

Q. Then Jordan, as a matter of fact, has been out of the wheel house, after he came on watch at night, cooking something in the galley for himself, or the wheelman and yourself?

A. I don't know whether he has or not.

Q. What was the occasion to which you refer, and and for whom was he cooking, and who ate the supper which he cooked?

A. Then we were having coffee. There was coffee on the stove.

Q. I don't care whether coffee or supper. Who participated in that feast? Jordan and the helmsman?

A. No, sir.

Q. Who?

A. Well, I came into the galley and got my cup of coffee and passed on back to the engine room. I couldn't be gone very long, because there was only

two men on duty in the engine room, and we can't both leave.

Q. Jordan was in the galley at the time?

A. Yes, sir.

Q. Who else was there?

A. I was.

Q. Who else beside you and Jordan?

A. Nobody.

Q. Then Jordan was cooking something for himself and for you. Is that right?

A. No, we were drinking coffee.

Q. Well, he had cooked something and was drinking something himself, the coffee?

A. The coffee is on the stove at all times.

Q. And Jordan was in the galley?

A. Yes, sir.

Q. That is after he came on watch?

A. Yes, sir; the galley is directly under the pilot house. It is only about—it isn't ten feet. The galley is right under the pilot house.

Q. Right under the pilot house?

A. Yes, sir.

Q. Now, whether ten feet or twenty of the house, the galley is not in the pilot house?

A. No, on the main deck.

Q. And Jordan was in the galley on the main deck drinking his coffee on the night in question you refer to?

A. No, I didn't say that.

Q. What was he doing?

A. It was some other night; I don't remember which night—oh, the night, I refer to? Yes, that is right.

Q. Was anybody else there with Jordan besides himself?

Q. On watch, you mean?

Q. Drinking coffee in the galley?

A. No, sir, not that I remember.

Q. Jordan was alone, was he?

A. Yes, sir.

Q. Now, you say, do you, that you didn't say to Captain Hobson that Jordan was in the habit of going into the galley about that time of night, referring now to the time of the collision, to cook something and eat something?

A. No, I don't think I did.

Q. You did say to Captain Hobson, however, on the occasion to which I refer, you did say something on the subject, in talking about the collision between the Samson and the Henderson, from which Hobson might infer that Jordan was in the galley on the night of the collision?

A. If I did, it was something that I had heard, not that I knew as a positive fact.

Q. You had heard something then to that effect, had you?

A. I had heard more or less talk, of course.

Q. Of Jordan not being in the pilot house at the time of the collision?

A. No, the talk—

Q. Just before the collision then?

A. No. Talk that he was in the habit of going down.

Q. In the habit of going down into the galley for something to eat about the time, or just before the collision between the Samson and the Henderson,—about that time of night. That was the gossip, was it?

A. No, I don't think there was any talk about the time.

Q. What was the gossip? Tell us what the gossip was to which you refer?

Mr. MINOR: I don't want to be captious, but it seems to me this is going a long ways.

Mr. SNOW: This witness, if your Honor please, says he did say something to Captain Hobson from which he might have inferred that.

COURT: Objection overruled. If he can remember, he can state.

Q. Go ahead.

A. What was that?

(Question read.)

A. Well, the gossip was he was supposed to go down and cook meals.

Q. Read that answer. (Answer read). That is, the gossip was that he was in the habit of going down and cooking meals?

A. Yes, sir.

Q. And you mentioned that fact to Captain Hobson, did you, at Astoria, at the time and place I men-

tion?

A. Well, I don't remember whether I mentioned it to Hobson or not.

Q. Whom did you mention it to?

A. Well, I am not sure whether I mentioned it to any one or not. I am not positive on that. I know I heard it myself, but whether I mentioned it to any other party or not, I wouldn't be sure of that.

Q. From whom did you hear it?

A. I don't remember that either.

Q. Well, I have got hold of it, Mr. Jensen. Now, I must have got hold of it from some source that you had talked with Captain Hobson about this subject.

COURT: You have asked the question. That is argumentative.

Q. Well, do you remember what you said to Captain Hobson, from which he might infer that that was Jordan's habit?

A. How is that, please?

(Question read.)

A. No.

Q. But you do remember of talking to Hobson on that question?

A. Question of the collision, yes, sir.

Redirect Examination.

Questions by Mr. MINOR:

Mr. Jensen, I understand you to say you didn't see Captain Jordan on the night of the accident at all that you remember?

A. No, sir.

Q. Not until after the collision?

A. No, sir; not until after the collision.

Q. Now, Mr. Snow said this conversation took place some time about the time of the collision between the Samson and the Tillamook. Do you remember that—the collision between the Samson and the Tillamook? You remember there was a collision between the Samson and the Tillamook?

A. Yes, sir.

Q. Was Jordan on duty then?

A. No, he wasn't on the boat at all, I don't think.

Q. You don't think he was on the boat at all at that time?

A. No, that was Hobson and Church. Hobson was the pilot at that time, if I remember correctly.

Mr. SNOW: Captain Church?

A. Yes, sir.

Mr. SNOW: That is the same Hobson you refer to in your testimony that I was asking about, is it?

A. Yes; W. H. Hobson.

Q. Was he on the Samson at that time, or the Tillamook?

A. He was on the Samson.

Q. Samson at that time, but as a matter of fact, Church was on duty at that time, wasn't he?

A. I don't remember who was on duty.

Witness excused.

CAPTAIN ALBERT CROWE, a witness called on behalf of the claimant, being first duly sworn, tes-

tified as follows.

Direct Examination.

Questions by Mr. MINOR:

Captain Crowe, what is your business, and where did you reside?

A. Reside at Portland.

Q. What is your business?

A. My business is marine surveyor.

Q. Did you ever follow the business of a seaman?

A. Yes, sir.

Q. How long?

A. About 24 years.

Q. And what kind of vessels?

A. Oh, nearly all large vessels.

Q. What is that?

A. From 650 tons net register, up to 2300 tons net register.

Q. Steam or sail or both?

A. Sail.

Q. Captain, I call your attention to Libellant's Exhibit 1. Captain Sullivan testified that when he first saw the lights of the Samson, his barge was at the place indicated by the cross mark, over which I find the words "oil barge" written.

A. Yes, sir.

Q. And that the Samson at that time was at the place indicated by the circle by which is the letter "B". Do you see what I mean?

A. Yes, sir.

Q. Now, the Samson was going down the river, and the oil barge was coming up the river?

A. Yes, sir.

Q. If the boats were in that position, when they came in sight of each other, what lights would show from one boat to the other boat?

A. The masthead lights and the side lights of the oil barge would show. It is very doubtful if the lights on the Samson coming down may have—she may have been sloughed a little on her wheel, but I would expect to have seen the masthead light and the green light on the Samson.

Q. Now, Captain, Captain Sullivan testifies that he ran—that the time—he ported his helm, and ran from that time in the course indicated by this line which I point out to you here, the curved line.

A. Yes, sir.

Q. To a point where there is a cross mark, and opposite that cross mark is written “second signal,” I believe you see there?

A. Yes, sir.

Q. Captain Sullivan has testified that after he sighted the Samson, he ran on the curved line, or on the straight line. He thinks on the curved line.

Mr. C. E. S. WOOD: The straight line, as I understand it, was eliminated.

Q. I know he scratched it out, but at the same time, that is the way he testified; he thinks on the curved line, to a point indicated here by this cross mark?

A. Yes, sir.

Q. That cross mark made on the curved line, you understand?

A. Yes, sir.

Q. And opposite that is written the words "first signal."

A. First signal, yes, sir.

Q. And during that time the Samson ran the same course so that her lights were in full view; both her lights, to a point indicated by the cross mark here, and opposite to which is written "Samson when first signal was given." Now, if the two vessels were going on those courses, what lights would be visible from one to the other?

A. The Samson making that course to that point, all of her lights ought to be visible all the time, and it would indicate that she was not swerving, although her head may have been a little out the way; she was still maintaining that straight course. This vessel should show her port light, and masthead light; impossible to show the green light making that course there.

Q. Now, Captain Sullivan testified that from this point, where the first signal was given, he ran on the course indicated by the line to which your attention has been called, to a point indicated by a cross mark, opposite to which is written the words "second signal?"

A. Yes, sir.

Q. And that during that time, the Samson ran on

a course to a point indicated here as Samson from several cross marks, and opposite to which is written "Samson second signal." Do you see that line?

A. Yes, sir.

Q. If the vessels ran on those courses, what lights would be visible from one to the other?

A. The port light of the Henderson and her tow, and the masthead light; all the lights because this vessel has maintained an exactly straight course, and from this point looking fair with fore and aft line of keel, this vessel to come from here to this point, has got to be laying; if the lights are at all right, it must shut out this light, the starboard light, impossible to do otherwise.

Q. He then states that from the point where he says the second signal was given, he ran on a course to the point where you see—what you see is indicated by a cross mark opposite to which is "collision."

A. Yes, sir.

Q. And that the Samson ran to that point and collided with him. What lights would be visible from those boats? Here is one point, and there is the other point there.

A. Well, it is—

Q. There is the collision there.

A. Oh, in there?

Q. Yes.

A. Well, the same lights.

Q. She is going this way?

A. She must show the starboard light of the Hen-

derson, and her tow must be shut out in coming from this point to here. It is not possible for them to show unless the lights are an awful ways out of place.

Q. How about the lights of the Samson from there down, she being here?

A. The Samson could have been seen all the way.

Q. From here, from that point?

A. The starboard light of the Samson should have been visible, and the port light shut out.

Q. Now from this point here.

A. From that point to that one?

Q. Yes.

A. Well, she would be laying nearly at right angles; was across the Henderson.

Q. And only one light would show?

A. Only the port light would be shut out.

Q. He afterwards corrects his statement, and says that at the time the second signal was given, the Henderson was at a point to which I point here, and opposite to which is written "corrected location of oil barge." You see that point there?

A. Yes, sir.

Q. And at that time the Samson—he corrects the Samson's location also and says at that time the Samson was at a point which I indicate here, and opposite to which is written "corrected location of Samson." That is the point here, you see.

A. Yes, sir.

Q. Now, what lights would be visible from the boats if one of them was running on the line which

he states, and the other was running on the line which he indicates here?

A. From the corrected point to the point of collision?

Q. From the corrected point to the point of collision.

A. That is the correct point, and that is the correct point of collision?

Q. Yes.

A. Well, the starboard light of the Samson should have been shown, and the port light shut out, and the other, the starboard light should have been shut out on the Henderson and the port light only shown, but in this position—

Q. Now, he further corrects that statement, and gives you a further location of the Samson at the point which I now indicate, and opposite which is put "correct location of the Samson," the point marked by a double cross.

A. Yes, sir.

Q. But doesn't correct his statement of the location of his boat, after that. If his boat were running to the point of collision there, and the Samson running to the point of collision, from this corrected location, what lights would be visible?

A. You might see the whole lot of lights on the Samson, approaching on this point to this one, and the Samson coming down about end on; very likely would see all the lights.

Q. You think in that case could see all the lights?

A. From this last corrected collision point.

Q. She is running that way and the other boat was running that way?

A. Yes, it is—the red light on the boat just shut out a little; it ought to be shut out, but nothing hardly over. The angle would be small. The angle is considerably less, only ought to see green light, the red not at all, but shut out by but a small angle.

Q. The red light on the Samson should be shut out?

A. Yes, sir.

Q. And the green light of the Henderson would be shut out?

A. Yes, sir; it should be shut all the time if she is making for this point.

Q. If the oil barge and the Henderson ran from the point to which your attention has been called, where Captain Sullivan says he was at the time the Samson was first seen, and ran down the course which is indicated, to the point of collision, the curved line in that direction, I understand you to say that the—

A. (Interrupting) Green light.

Q. (Continuing) Of the Henderson would be shut out?

A. The green light would be shut out all the time; not possible to make that angle across there without shutting out the green light, and this one coming down on this course. When the vessels was approaching very near together, the angle may be very near up—open her red light on the Samson; but it should be

shut out all the time.

Q. Should be shut out all the time?

A. Should be shut out all the time.

Q. If the vessels, however, were traveling on the course which Captain Jordan testified, which is on a course indicated practically by a straight line between the point where Captain Sullivan says the Henderson was when he first saw the Samson, and the Samson was rounding the bend of Puget Island, nearer the Puget Island shore than the point which Captain Sullivan states she was in, and they ran in that direction until they collided at the point which Captain Jordan—

A. That is the Ostervolt house?

Q. (Continuing) Which Captain Jordan indicated as point "Q," CJ under it—now what lights would appear in that case?

A. All the lights would be visible coming over here.

Q. No, no. He is running on this course to that point of collision.

A. Yes, it wouldn't affect it. If that boat is coming down on this line; now, it wouldn't matter where this boat is, you can look and see all the lights on the Samson; wouldn't matter where this boat was on the line.

Q. And if that vessel were coming down that line?

A. Then you could see them from both vessels.

Q. To make it clear, Captain, if they are running on the course which Captain Jordan says they were

running on, I understand you to say that all the lights would be visible on the Henderson from the Samson, and all the lights on the Samson would be visible from the Henderson—the oil barge?

A. Yes, sir.

Q. But if they are running the course Captain Sullivan says he was running on with the Henderson and the oil barge, I understand you to say that only the red—

A. The red light of the Henderson and oil barge would be shown.

Q. Would be visible on the Samson?

A. From the Samson.

Q. But in that case I understand you to say the Samson's lights would be visible until about the time of the second whistle.

A. If coming down on the course that Captain Jordan says.

Q. Yes; that Captain Sullivan says she was coming on; if coming on that course.

A. Then the port light of the Samson will be shut out?

Q. The port light of the Samson will be shut out?

A. Yes, coming down; if she was heading in for the bluff there in Bugby Hole.

Q. Captain, does the fact that a bluff shown on the chart here to have been about a thousand feet high, comes near to the shore, affect the ability to judge distances that you are in the water from shore?

A. It will. High objects will appear closer then.

They will appear closer. You are more timid in approaching high objects. Low water is deceiving. Distances on water toward low land is deceiving.

Q. High water objects would look close?

A. High objects a man would be more afraid of approaching them, but you can tell your distances better.

Q. Captain Crowe, it is claimed on behalf of the libellant, that the Henderson was lashed to her tow by several cables or lines, and her bow was turned—stem was turned in toward the oil barge about two feet. What effect would that have on the lights of the Henderson?

A. The lights wouldn't have shown right. Her steering lights wouldn't have been right.

Q. Would not be shown right. You have seen oil barge 93?

A. Yes, sir.

Q. Are you acquainted with vessels of that character?

A. Yes, sir.

Q. Now, it is claimed on behalf of the libellant in this case, that there was one fender six inches in thickness.

A. Yes, sir.

Q. Between the Henderson and the oil barge; and that that fender was about opposite the point where it is claimed the rock barge struck the Henderson. Did you see the injury which the Henderson sustained by this collision?

A. Yes, I did.

Q. You looked at that, did you?

A. I did.

Q. If it be true, Captain Crowe, that the only place the rock barge struck, either the Henderson or the oil barge, was at the point you saw this damage to the Henderson, what effect would that blow upon that side of the Henderson have upon the oil barge, in your judgment?

A. I didn't understand clearly which barge. It would make a lot of difference which barge hit the Henderson about the pressure that would be exerted against the side of the oil barge.

Q. You saw where the Henderson was damaged?

A. Yes, sir.

Q. Now, if that was struck, we will say, by the port barge of the flotilla of the Samson, and that was the only place where either the oil barge or the Henderson was struck—

A. Yes, sir.

Q. What, in your judgment, would be the effect of that upon the oil barge as to injuring the same?

A. It would throw the Henderson very violently against the oil barge. The place of contact would be the fender.

Q. In your judgment, would that make any impression upon the plates of the oil barge?

A. If the port rock barge—yes, if the port rock barge hit the Henderson, there would be that impact that the thin steel side of a vessel of that class—

why, it will dent in like so much thin paper, almost.

Q. However, on the other hand, as testified by the witnesses on behalf of the Samson, if the rock barge, the port rock barge of the Samson's flotilla, first struck a glancing blow upon the oil barge, just a glancing blow on the oil barge, and slid along that oil barge for some feet—I think the distance is variously estimated at from 15 to 25 feet—until the port rock barge of the Samson's flotilla came in contact with the stem of the Henderson—

A. Yes, sir.

Q. And at or about the same time that the port rock barge of the Samson's flotilla struck the stem of the Henderson, the center barge of this flotilla struck the Henderson at the point where you saw the damage done, and did that damage, what effect, in your judgment, would that have on the oil barge?

A. The pressure would be exerted—would be very little pressure exerted on the side of the oil barge, would be nearly in a parallel line. It would break the lines and carry them all away. It wouldn't press hard on the oil barge.

Q. Would it dent the plates of the oil barge, in your judgment?

A. No, sir, it wouldn't. Too much of a glancing blow; anything in a small angle, would take a very small craft to dent in there. Only a couple of weeks ago, a small boat punched a hole in one of these big boats down the river.

Q. Now, Captain Crowe, are you acquainted with

the manner in which the Henderson was lashed to the oil barge?

A. Yes, pretty fairly well.

Q. You know the character?

A. I know the ropes. I seen the ropes.

Q. And you heard the testimony before the Inspectors about that fact?

A. Yes, sir.

Mr. SNOW: You are not acquainted with the manner in which the Henderson was lashed to her oil barge except what you heard somebody else say?

A. I measured all the ropes.

Mr. SNOW: As to the manner of lashing. I am not speaking of the ropes.

A. I have seen her ropes, and know all her capstans, and all about it.

Mr. SNOW: I mean the manner of lashing.

A. I know all the ropes.

Mr. SNOW: I know you are a very great man, but—

A. I saw what were supposed to be the broken ropes. They are all broken ropes, and I took pieces of them away to know what kind of ropes they were there.

Mr. SNOW: I know you did. I am thoroughly satisfied about that.

Q. Now, Captain, assuming the Henderson was lashed to the oil barge in the manner you say you heard testified to, and that the ropes were of the character of those testified to, and of the character of those

which you saw, and all those ropes were broken by this collision, what effect, in your judgment, would that have upon the momentum of the oil barge?

A. Very little at all. The way—I will qualify that—explain that better by saying that the way in motion of the two objects—that is, the ropes are cinched up tight, and the way of the two objects meeting together at the collision, snapped the thing and wouldn't retard either one of them but very little. You wouldn't notice it.

Q. Now, Captain Crowe, if the Henderson had been backing for from one-half to one minute before the collision took place, what effect would that have upon the momentum of the oil barge, in your judgment?

A. It would stop the Henderson herself, but she wouldn't have time enough in from one half to one minute to make—it would exert some retarding influence on it, but when you reverse the engines of any steamer, it takes some revolutions and some time to stop her own way from going forward, advancing. She would also have to transmit her power into the barge to stop it, and in half a minute to a minute, she would retard it some; not a great deal.

Q. Suppose then that the oil barge and the Henderson at that time were going at three miles an hour at the time the Henderson reversed and began to back, how fast, in your judgment, would they be going at the time of the collision, if they only backed for not more than a minute?

Mr. SNOW: That is hardly a subject of expert opinion. That is what your Honor must decide, in effect.

COURT: The witness is qualified, I think. The objection will be overruled.

A. It would retard her very, very little. It wouldn't—with the rate of speed of three miles an hour, and supposing we would take three-quarters of a minute, I wouldn't think it would retard her over half a mile, because it wouldn't have time—probably two and a half.

Q. Supposing the backing was as much as even a minute?

A. A minute, a full minute would be a little more. wouldn't get more than one mile of her speed, wouldn't get that.

Q. Wouldn't get that of her speed? Suposing the—you know about the tide at that time, do you? There was an ebb tide?

A. Yes, sir.

Q. The tide was a high tide that night. You remember that, about an eight or nine foot tide, and it was the ebb tide; and you know the location on the river where the accident happened?

A. I do.

Q. Now, supposing the facts were as I have given them to you. How far, in your judgment, would the oil barge drift after she was cut loose in the manner that I have described?

A. Just letting her run herself?

Q. Yes.

A. Half a mile.

Q. Half a mile?

A. Yes, sir.

Q. If her helm was put to port, hard aport, in what direction would she drift?

A. She would turn over to the Oregon shore.

Q. Toward the Oregon shore. Did you ever see the anchors on the Oil Barge 93?

A. I have not seen them close.

Q. Are they what is commonly called and designated in here as patent anchors?

A. Yes, sir.

Q. Are you familiar with that patent anchor?

A. I am very familiar with it.

Q. Do you know anything about the character of the anchorage down at that point where this collision took place, or is thought to have taken place?

A. Yes, sir.

Q. What is the character?

A. Sand with a little gravel.

Q. Sand with a little gravel. Suppose the order was given to lower the anchors of this oil barge immediately after the collision took place, and the anchors were immediately let go, to what extent, in your judgment, would that retard the speed or course of the oil barge?

A. It would diminish her speed, but would depend a good deal on the length of chain that was let out.

Q. Do you know about how deep the water is under that bluff?

A. About 80 feet.

Q. That is to say?

A. About 80 feet at the point. I measured the depth of water there, and it agrees with the chart.

Q. About 80 feet at the point where Captain Sullivan says the accident took place.

A. It says 70 feet there (looking at chart). 78 right here.

Q. There is 70 right there (indicating on chart.)

A. The soundings are about right. I sounded over considerable space there, and the soundings are correct with the chart.

Q. Now considering that the anchors were let go in the manner that is claimed by Captain Sullivan, that is to say the order to let go the anchors was given immediately after the collision took place, and that the anchors were promptly let go, how far, in your judgment, would the oil barge have drifted?

A. Oh, approximately two lengths of herself, very close to two lengths.

Q. That would be—she is about 280 feet long?

A. She would go 500 feet.

Q. She would go 500 feet?

A. That is depending on the length of chain.

COURT: The only testimony on that has been 40 fathoms.

A. 40 fathoms. Well, she would go a full length and a half of herself.

Q. 40 fathoms would be about 240 feet, would it not? Six feet—to forty feet. And you think she would go how much more than the length of her chain?

R. Oh, the boat herself would run a full length and a half of herself, because a vessel with headway, and that way, a light vessel, if your chains and anchors go, you can bring up in a very short distance; but a loaded vessel with sand bottom, and anchors of that kind, and depth of water cuts a great figure in it: the anchor and chains will be at such an angle, that unless you pay out long or short, the ship carries the anchors right along with her.

Q. You think she would go one and a half lengths of herself beside the length of the chain out? Is that what I understand?

A. No. If you let go the anchors—at the point you let go the anchors, she would drag. She would drag the anchor. Her way would drag the anchors about a length and a half of herself before they would hold in that depth of water and that bottom.

Q. That then would make the entire drift one and a half lengths of herself, plus the length of anchor out?

A. Yes, a ship would really go back on top of the anchor. The ship would be overrunning the chain, but would drop back perpendicular over them. She would carry the anchors in that depth of water, and that amount of chain out, she would carry her anchors at least one and a half times the length of the

ship. If the bottom were good enough, so that the anchor could hold on, so the anchor couldn't drag, it is going to part the chain, or cut the hawser down, one of the two. That was not the condition there. Inevitably it must have carried the anchors with her.

Q. Captain Crowe, did you examine the Henderson after she was raised?

A. Yes, sir.

Q. There is some evidence here in regard to her stem. Did you see her stem?

A. I did.

Q. Did you see the oil barge—the port rock barge of the Samson after she was struck?

A. Not at that time. I have seen the barges since.

Q. You have seen the barges since?

A. Yes, but at that time I didn't see either of the barges belonging to the Samson.

Q. The evidence is to the effect that on the starboard bow of rock barge No. 9, which is the port rock barge of the Samson, there is a cut which some witness testified was made by the stem of the Henderson?

A. Yes.

Q. Now, if the accident had occurred in the manner in which the witnesses on behalf of the Samson say, that is to say, they claim that the oil barge was first struck a glancing blow by the port barge, and the port barge drifted along the side of the oil barge for from 15 to 25 feet approximately, and struck the stem of the Henderson, and just at that time, or about

that time the center barge of the Samson struck the Henderson where the great damage was done. What effect, in your judgment, would that have upon the stem of the Henderson?

A. The stem of the Henderson, the lining iron was bent in. The iron was pressed into the stem. It had slid something over her.

Q. The evidence didn't show it had been dented in very much? If the accident happened in the manner in which I have described, to what extent do you think the stem of the Henderson would have been bent in?

A. It wouldn't—the construction of the stem of the Henderson that has big iron, lining iron, or stem iron; it would make an awful injury in the other boat, and would be very little discerned on the Henderson; possible to have cut in four or five feet, and practically done nothing to it, but in this case, I measured the amount which it was forced on. It showed that it had been—there had been contact with something very recently. There was a piece of a sliver in one of the bolts fastening on the stem iron, piece of fresh wood. The stem of the Henderson had been in contact with something very heavily.

#### Cross Examination.

Questions by Mr. C. E. S. WOOD:

Captain, for whom are you surveyor?

A. The San Francisco Board of Underwriters.

Q. That is the Insurance Company?

A. That is a combination of a number of insurance companies.

Q. And are any of your companies, as far as you know, interested in the insurance on the Samson?

A. Yes, sir.

Q. And you have made some examinations at their request, haven't you?

A. Yes, sir, at the request of the insurance company and the owners of the Samson, both.

Q. Now, the examination that has been addressed to you by counsel, is practically a review of the theory of the collision that you worked out for the Samson, is it not?

A. My opinion of the collision was arrived at after having put in, I think, every day that she was lifting, and a number of days after, that she was in Portland; I had arrived fully by the time that we had got her once out on the ways, and every injury taken into consideration, both on the Henderson and the barges, but to my mind—take the crafts with their measurements, and the injuries that is on them, there is only one way possible that you can get those injuries, is to come together in the way that my theory fits out. Nobody else can get them together, and get those injuries on those barges, unless they come that way. There is only one way they can get together.

Q. Now, how large was the dent on the stem of the Henderson? How great an indentation was it? It really wasn't perceptible to the naked eye, was it?

A. Oh, yes. I put a straight edge on it.

Q. I say, wasn't perceptible to the naked eye?

A. Yes, quite perceptible, because the iron was driven into an oak splinter.

Q. If clearly perceptible to the naked eye, why did you put a straight edge on it?

A. I put the straight edge on it to measure the amount of straight where it should have curved.

Q. How much was that?

A. I wouldn't be positive now, but I think three quarters of an inch—five-eighths. So long ago.

Q. It has been testified here between one-eighth and one-quarter, measured by straight edge. What would you say to that?

A. More than one-eighth inch. I wouldn't—I am not sure now, but to the best of my recollection, this stem iron has got a curve; the iron, even if it were only one-eighth in the hollow, it would have been changed then probably; to the best of my recollection it is five-eighths inch.

Q. Now, those barges were loaded with rock, you know?

A. Yes, sir.

Q. Do you know about the weight of the rock?

A. About a thousand tons. The two big barges have more than the center barge.

Q. And the port barge that collided, as you think, with the stem of the Henderson, was one of the larger barges?

A. One of the larger barges, yes, sir.

Q. And they are built for going across the bay to

sea, you might say, and taking rock over to the jetty aren't they?

A. Yes, sir.

Q. And very strong construction?

A. Strong construction.

Q. Do you think they were—do you think that that heavy port barge could go into the Henderson and have its nose smashed in to the extent of cutting in a foot or two, and not make any more impression on the bow, stem iron of the Henderson than what you say?

A. Yes, sir. I will explain how that would be. The bow of the Henderson is very sharp. The stem is of oak, very heavy piece of oak, and it has a stem iron on the outside of that, about two and a half by three and a half, if I remember correctly, bolted onto this oak. The stem is reinforced with the ends of all the planking up and down the bow; that going into the soft rail on one of the rock barges there, goes in there, can cut in there four or five feet. She would hardly notice it on the other boat. As a matter of fact, my understanding was it cut in nine inches, and it could cut in that easily, and not make very—have very little effect on it.

Q. You say the soft rail or nose of the barge? As a matter of fact it is nosed with oak, isn't it?

A. The head log? No, there is no oak; not to my knowledge on that boat. I think a big fir log, what they call the head log, that was cut.

Mr. MINOR: I think all of fir.

Q. I understand the nosing of oak.

A. A big fir head log. The deck was out of, I think, timbers about 14 or 16 inches.

Q. I show you these wooden models, six in number, and ask you if you prepared them?

A. Yes, sir.

Q. Are they drawn to scale?

A. The lengths are to scale, but not depth. The length and beam are to scale, not the depths.

Q. Not the perpendicular?

A. Not the perpendicular height, but they are approximately correct. All of those vessels would be, in sitting in the water as they were, but not exact.

Q. The one marked "Oil Barge" is supposed to represent Barge 93?

A. Yes, sir.

Q. And tug Samson, represents the Samson?

A. Yes, sir.

Q. And the steamer Henderson represents the Henderson?

A. Yes, sir.

Q. And the three round nosed models represent the barges?

A. Yes, sir.

Q. Now, take these models, and give us your idea how they came together?

(Witness does so.)

A. The vessels approach in this manner. This port barge, there was a scratch on the paint on the oil barge, somewhere, I think, along amidships, al-

though that part the other evidence brought it out. I don't know just exactly where that was. There was the way they came. This barge on the Henderson, about two and a half feet below her guard rails. The guard of this rock barge took the planking there, and she caved it in until she went down about 30 feet, until the bow of this barge came in contact with the stem. Then the whole thing went around. This barge afterwards, with the lights turned out, she went around like this and turned over.

COURT: You mean the Henderson by "this barge?"

A. The steamer, rather. That is the way they came together. There was a mark along this side; this port barge here had a big buffer post which had been up and down the whole side of it, and the oil barge had marked. The middle one is the one that took there. It wouldn't be possible, assuming that the port barge hit the Henderson—the other barge, this barge, is 54 or 55 feet—this center barge is secured between the other two barges at between 54 and 55 feet ahead of them. If the port barge hit the Henderson, that middle barge would have taken her aft, and taken the after part of the cabin or wheel of the Henderson. There is no injury there. Wasn't possible for that barge to have made that injury.

Q. You are quite convinced that your whole theory is correct?

A. I am sure nobody could show me or place those barges—place them together the way they were fast-

ened.

Q. I am sure they can't show you, but let's get back to your last but one answer. Then, as I understand you, the whole flotilla of the barges coming down, the center barge—

A. Hit the Henderson.

Q. First plowed its way through the Henderson, and then let the port barge down on the Henderson's stem?

A. And the stem of the Henderson made that cut.

Q. But to enable the stem of the Henderson to make that cut, the center barge must have first plowed through the stem of the Henderson so as to let her down on her?

A. Yes, sir, that is just what it done.

Q. Now, you say the port barge hitting the oil barge first, and scraped the paint off.

A. No, sir, I didn't say the port barge side. There are marks here, and I don't know at what point exactly. I seen the barge passing here, in a boat afterwards, and there was paint rubbed off there, and I have taken the injury made from their evidence that there was injury there, and paint on this. I didn't see those myself, but they were there all right.

Q. Now, you say that the port barge couldn't have hit the Henderson, because the middle barge projecting out so far would have taken the Henderson aft.

A. Yes; would have hit the Henderson further aft. It is inevitable.

Q. That all depends on the angle at which they

came. Supposing they were going at this angle. Wouldn't that be quite possible?

A. If she were going, could possibly go by there, but it is improbable.

Q. But it does depend on the angle of approach?

A. She would have to—you couldn't get an injury there, and this barge have the deck lifted here, have a lot of injury here; I say that the injury on that barge and that one, and on the Henderson, it is not possible. They fit inside of a foot, the injury on them, and the way the barges were lashed; it is not possible to put them any other way to get these injuries and these measurements to fit.

Q. I know, but I want you to answer the question. It would be possible, according to the angle at which they approach, that the port barge could hit there?

A. Yes, the port barge could hit there.

Q. Depends on the angle of approach?

A. Yes, the port barge could hit that one, providing there was nothing else touched.

Q. I wish you would just draw on this paper a diagram of the wreckage and position of the flotilla representing your theory of the collision.

A. I have a line drawn where it would be 55 feet. Some one has cut that mark bigger than I made it. I didn't put that mark there.

Q. No, that was cut by Captain Jordan, so as to let them into each other.

A. It was cut so that at the time that this barge at that point hit her, she would just have to go just

the length of the injury that was on the Henderson, to let the port barge hit the Henderson. That measurement wasn't a foot out, inside of a foot with a clean break.

Q. You just make the drawing?

A. (Witness drawing) That is approximately it.

Drawing offered and marked "Libellant's Exhibit 22."

Q. Now, Captain Crowe, at that slight angle at which you had them drawn in this Libellant's Exhibit 22, at the angle at which you have the approach drawn, wouldn't that be too glancing a blow for the center barge to hit the Henderson and crush her in the way she was?

A. No, sir, not at all.

Q. Well, is it the same angle at which the port barge approaches the oil barge, and you said that was too glancing a blow to do anything but scratch the paint.

A. This barge—the two outside barges are flared a little; coming along and hitting at that—coming along and hitting on the oil barge in that way; there is room for a—it will rebound considerable; of course room for this one to slough around, but tied up here with the Samson, and tied in between the two other ones; have three thousand tons of rock and the weight of the Samson behind it.

Q. The Samson in fact and as shown by your scale is considerably narrower than the center barge, isn't it?

A. Yes, sir.

Q. And that would leave a space between her sides and the sides of the two side barges that she is in between?

A. The space is about 18" fender, and a big barge rail. They come together, and the coming together throws the ends of these two barges out (illustrating).

Q. That is what I am trying to get at? As I understand you, the sterns of each of the side rock barges are drawn in to the sides of the Samson.

A. Yes, sir; drawn in a little.

Q. We will say to the point "A" and "B" on this diagram?

A. Yes, sir.

Q. And that gives the side barges a little outward flare?

A. Yes, sir, on the forward end.

Q. On the forward end. Now, it seems to me, therefore, that that would make the angle of contact between the port barge and the oil barge more obtuse; that is, going a little more head on than the point of contact with the middle barge and Henderson. You flare out on your oil barge.

A. But you have got the round of the bow of the Henderson.

Q. But she was struck just forward of the house?

A. She was struck here; at the last end of the injury was 30 feet from there to the point of contact. She started in there just coming in the plankings under-

neath, increasing larger until she got in there seven feet on the latter end. That is 30 feet long on the Henderson.

Q. How far from the Henderson's stem was the first point of contact—of collision?

A. I think about fifteen feet.

Q. And how far from the stem of the port rock barge was that indentation?

A. How far from the stem of the rock barge?

Q. Well, from the midship line of the rock barge —of the port rock barge was the indentation supposed to be made by the Henderson's bow?

A. I have never seen that one. To the best of my recollection, it was just a little on the starboard side of the center. I am taking from what I heard.

Q. On the starboard side of the center. Now, then, here is another proposition I want to put up to you. If the port rock barge is, as you have drawn it by your scale here, 36 feet beam and the Henderson—what is that beam?

A. 33 with guard. The beam of the Henderson is 31 feet four inches. The guards make it approximately 33 feet.

Q. Yes; 33 feet. In other words, Captain Crowe, if she is narrower than the port rock barge, how is the port rock barge going to hit her a glancing blow, continuing all the way down her side, rubbing the paint off, along the side of the oil barge, rubbing the paint off all the way down, until she meets the stem of the Henderson, and yet the stem of the Henderson

makes a wound on the starboard side of amidships of the rock barge?

A. You take and draw that line to the center of the port barge now. You will find it will hit just a little on the starboard side of the center of that stem.

Q. And the collision with the oil barge would have no tendency, in your opinion, to throw the port rock barge or the flotilla over to starboard?

A. Yes. The port rock barge touching there, I don't know where she touched—

Q. But suppose she touched—

A. If she touched back here, way forward of the center barge it would inevitably throw her around, but if she touched her down here, nearly at the same time, about the same time of that touching, there would be no deflection of the port rock barge.

Q. Suppose the rock barge touched the oil barge 25 feet abaft the stem—25 feet, we will say, abaft the stem of the Henderson; do you know where she was lashed? She was lashed out 100 feet aft on the oil barge, and the oil barge is 280 feet long. Now, can you fix that point of contact? What effect do you think that would have toward throwing the stone flotilla over to starboard?

A. Oh, it would—

Q. Relatively moving the two flotillas?

A. It wouldn't—hitting a glancing blow like that, that vessel—her depth down in the water and her way, you would punch a hole through her before sending sideways. This one, with less draft of water,

and nothing between the starboard bow of that barge and the other one there, why it would shove that one around.

Q. The flotilla then, that in your opinion that would be most apt to be moved would be the rock flotilla?

A. A part of it. It would take an awful lot to move the whole business, but the first things that come in contact, the one of least resistance is the one that is going to move.

Q. Now, we go back to the question I asked you some time ago; it seems to me it is a case of sauce for the goose is sauce for the gander. If the port rock barge could strike the oil barge at such an acute angle such a slight glancing blow that all of that rock mass didn't even dent the side of the oil barge, then the same acute angle would have caused no injury on the Henderson.

A. To my mind there is no comparison at all; might have got the plain straight side of that oil barge; any object hitting along there will glance; you have the plane of this bow, and the other two rounds coming together; no comparison.

Q. Did the two rounds come together? Didn't you just say the first point of contact of the Henderson was abaft her bow?

A. You see that space will not keep the round of these from meeting; the round of that, you have something to butt against; you have nothing to butt against there.

Q. All right; I only wanted to get your theory of it. Now, then your theory is that had this angle been a little more obtuse, had she come a little more obtuse, that the side of the oil barge, with the weight of the two barges would have practically been no resistance, but they would have gone into her side like paper?

A. Let's suppose, as suggested that the port rock barge made the injury; she would have to come in like that; then there is a greater angle, a much greater angle, and that point of contact where the fender was in there—would get much more pressure on it.

COURT: Draw some lines to show the difference in the angle between what he suggests as the way they came together, and how they would have to come as he contends.

A. I am—I cannot make a line to fill your ideas. To me that is impossible that the vessels came and hit that way.

Q. I know that, but we are working this out on a theory.

A. Well, you draw yours on your own theory. I would prefer to draw my own, because I can't see—

Q. Very well; we will get that.

A. I can't see that this—I maintain if this barge down in here—if this barge here done the injury, there would have been more pressure exerted on to the oil barge, but I cannot get that into my head.

Q. What do you understand this fender between the Henderson and the oil barge to consist of?

A. Well, I really don't know what that one is.

now, whether a rope or a great big wooden one.

Mr. MINOR: The evidence is it is a circular fender made of rope, about six inches in thickness; that is the way I put it in the question.

A. The port rock barge could hit the Henderson and make that injury, but it is not possible to make it with the injury in this barge and the marks on the barge, and in this one, where it was made; not possible, so I couldn't draw any lines, or get anything to conform, because I have no suppositions. In fact I am absolutely positive it never occurred that way.

COURT: Captain Growe, how far do you say this wound in the nose of the port rock barge was starboard of the center of the barge?

A. It was a little—I really didn't see that; I took it from the evidence given at the investigation—just a little off the center as I remember.

Mr. ERSKINE WOOD: The evidence in the investigation was six or seven feet starboard of midships—starboard of the stem.

A. I didn't remember that much.

Q. I put in blue pencil in there, Diagram of No. 9, showing that if they had come in at that angle, the port rock barge could have made the same wound in the Henderson.

A. She could, but this barge then would have had to have something for to cause this injury and the marks.

Q. By "this barge" you mean No. 27?

A. 27. You have got to account for the injury

that was in her and have to account for the injury on the oil barge.

Q. Now, suppose that barge No. 9 tore the Henderson loose, all her lines snapped, as it seems to be agreed by all hands that they did, wouldn't she nose her right around so that this barge 27, the rock barge, might have been hit by the swing of her?

A. There was no place showing on the Henderson indicating it at all. You would still have to account for the cut in there.

Q. Captain Crowe, don't you know that her whole port guard was stripped off her from bow to stern?

A. Yes, sir, tore that off turning her over with five tugs on her.

Q. But the wreck when brought to the surface—

A. It was very clear how that guard was broken off, because I looked at that particular.

Q. I know all about how you know, and I am not going to alter your theory a bit. I just want the facts. When the Henderson was brought to the surface, her whole port guard was destroyed.

A. Yes, sir. It showed how taken off; hadn't been taken off with fore and aft motion; was taken off with rolling in the sand. Irons were bent. I particularly looked at that.

Q. Could you tell the bending of the iron was from sand or from a collision?

A. The bending in the irons, not the guard that was broken off. The irons were twisted down, each deck beam was broken—were strained down.

Q. They never even saw that guard; that went away; they never even saw the debris.

A. I am talking about the irons in the vessel.

Q. I want to show you can't tell what broke the irons, whether the collision or not.

A. I am positive that the strain that broke the guard-rail of the Henderson—54 feet of guard-rail of her came off quite a number of days after we were at the operations of lifting; the rest of the guard rail we didn't see at all. We didn't at that time, but we had—

Q. Never did see it?

A. But we had the rest of the guard. We had the deck beams broken right on the side of the planking and the irons holding the deck beams down into the sheer strake were bent down, and it showed conclusively how the strain was exerted to break that.

Q. Do you think it could have been possible that the port rock barge hit the oil barge a glancing blow and went down and hit the stem of the Henderson first, and was itself the one that caused the parting of the lines, or do you think it was the middle barge that hit the Henderson first and caused the parting of the lines?

A. It is pretty hard to say that because—

Q. Let me ask you: Well, I don't want to interrupt you if you want to give an explanation.

A. Following my theory which I am positive is right, the center barge hit the Henderson there; there was not—at the first point of contact there was not

much shoving force to shove the Henderson away, and she rolled the timbers up and got in seven inches, bulkhead for this barge to push against; then this barge could have broken the lines of the Henderson.

Q. Which barge?

A. The center barge; it could have broken, but I am not going to make the assertion it did.

Q. Then I am asking you, would it have been possible for the port rock barge to have borne the whole first brunt of the collision and snapped the lines, and yet received no bigger wound in her nose than she did?

A. If the port rock barge had sustained the brunt of the collision, there would have been a bigger cut in her.

Q. If she had been the first thing to strike?

A. If she had been the first thing to strike, there would have been a much bigger cut.

Mr. C. E. S. WOOD: I offer this diagram in evidence. Diagram previously marked Libellant's Exhibit 22.

Q. Now, Captain Crowe, how far up or down, I don't care, either way, was the dent or curvature in the Henderson's stem iron, either from the keel or the top of the water line?

A. About  $2\frac{1}{2}$  to 3 feet from the water line up.

Q. And did you say that you found the point of contact, as you would think, with the Henderson, beginning about 15 feet abaft her stem—15 feet abaft the stem?

A. May not have been.

Q. About that?

A. I rather think a little less than 15 feet.

Q. How do you reconcile that with your statement, as I understood you, that you found 30 feet of the guard forward that was torn away, if the point of contact was 15 feet—

A. I didn't make that—the injury to the Henderson from the first point of contact aft increased; it started in at a small caving in of the hull; it extended for thirty feet, and beyond, with cross section, like, in it 7 feet wide.

Q. You don't mean to say that there was guard destroyed 30 feet ahead—

A. Oh no..

Q. —of the injury?

A. No, sir, not at all; not at all, because the injury was really under the guard, and the forward piece of the guard came up, 54 feet long; the rock barge went underneath this guard, and the rocks and all broke up through the deck.

Q. Suppose the collision occurred at the cross marked Q on Libellant's Exhibit 1, and that what has been described to you took place; that the lines were all parted; there was an ebb tide and the oil barge was going about three miles an hour, and was headed upstream with her helm hard aport, I understand you to say that would have a tendency to swing her towards the Oregon shore?

A. Yes, sir.

Q. It would be a gradual swing, would it, with her momentum—as her momentum carried her forward?

A. Yes, sir.

Q. And you say that her momentum, not checked nor increased by anything in that current and tide, would carry her about half a mile?

A. Yes, sir.

Q. Then it would carry her approximately up towards or above the figures 29 on the chart, which lie on the range light?

A. It would carry her—if that was the place of the collision, it would carry her about here.

Q. Can you put your pencil about where you think she would stop—say her anchors were let go, and her speed was checked?

A. I wouldn't; I would have to take the scale.

Q. Well, can you direct me to move from the point, Cross Q?

A. The general trend, she is coming over here on a port helm, hard aport.

Q. Start from the cross Q. Just draw a dotted line, a broken line. (Witness does so.) Something like the line QY, we will call it. Something like the line QY?

A. Yes, sir; give her a little more time and she will turn clear around if she had space.

Q. What sort of a bottom is there at the point Q in the river there?

A. Well, I took soundings here; principally sand and a little gravel.

Q. And the river is the same bottom all the way across?

A. Well, that I couldn't tell you. I took soundings—not up that high, not quite that high. I took soundings, oh quite a long distance here, and clear over got the point of Tenas Illihee Island here; over the soundings here. But I went afterwards and near this bluff and around here and found the soundings correspond to the chart, from the center of the river towards the bluff; not on the other side.

Q. Assuming now that rock barge flotilla were loaded as you understand, with something over, averaged over a thousand tons of rock each, and they were coming down the river with this ebb tide and current, and that they had commenced to back from one-half minute to a minute before the collision, what effect would that have under those conditions in checking their momentum?

A. Check them but it wouldn't stop.

Q. Would it check them materially and perceptibly?

A. Not very much.

Q. And that mass would have—

A. Still sliding along with its own momentum and the current with it.

Q. And the current with it?

A. And the current with it.

Q. So if its helm was hard aport and the Samson, as a screw propeller backs to port, and she was doing this backing for this short time, that would have a

great tendency to swing her flotilla, to swing her flotilla in towards the Puget Island shore, wouldn't it?

A. But the line of motion in which she was previously would be followed somewhat, because she would slide.

Q. If that had a tendency to throw her off towards the Puget Island shore, how far do you think she would run or slide under her momentum, after the collision?

A. If she retained all the rock barges with her, she would go a good many lengths of herself.

Questions by Mr. SNOW:

Captain Crowe, you have taken a good deal of interest in this controversy, haven't you?

A. I am interested because I am paid to be interested.

Q. Who are you paid by?

A. Underwriters; I haven't got my pay yet but I have no doubt about getting it. I am under the employ of the San Francisco Board of Underwriters.

Q. You represent the insurance on the Samson, then, don't you?

A. To an extent.

Q. What?

A. Yes, sir. Not altogether; I am one of their associates.

Q. And all the expenses that you have incurred in this investigation that you have made, the soundings and all of that, have been paid by these underwriters?

A. They will be paid.

Q. They are not paid then by the Samson and the Columbia Contract Company.

A. I have not been paid yet, but I have no doubt about getting my pay.

Q. Just don't talk so much and we will get along faster. We are taking more of your time than should have been. Has the Columbia Contract Company paid you?

A. I have not been paid by anybody.

Q. If the insurance companies can succeed in winning this case, they are saved the policies, aren't they?

A. That part of the business I am not in position to talk about.

Q. Who employed you to make this investigation and give this theory you spoke of?

A. I am employed by the San Francisco Board of Underwriters and in this case, at the request of Mr. Biddle of the Columbia Contract Company.

Q. At Mr. Biddle's request you were employed to give this theory and make this investigation?

A. Mr. Frank Taylor, Pacific Coast Agent for the San Francisco Board of Underwriters later, and Mr. Biddle requested me to go in and get all the information I could, in other words to protect their joint interests.

Q. In other words to protect their policies?

A. Protect their—term it that way.

Q. How long have you sailed up and down the Willamette River?

A. Not as captain. I have been up and down—

Q. How long have you sailed up and down the Willamette River?

A. I have been up and down the Willamette River, on ships of all classes for the last eleven years.

Q. Your experience is with sailing vessels as I understand you?

A. Lots of steamers every day.

Q. Just answer the question. Did you say on your direct examination, or on your cross examination, I don't care which, that your experience was with sailors, and not with steamers?

A. As a captain.

Q. As a captain, your experience is on a sailer?

A. Yes, sir.

Q. You have never been a captain—

A. On a steamer?

Q. (Continuing) —on any steamer?

A. No, sir.

Q. Now, your theory as to how far a vessel will drift and how far she will back, and how far she will go forward, is pure theory as far as your experience goes, is it?

A. No, sir; not at all. I was seventeen years master of a vessel, and master when they were light and when they were loaded, and it was through letting go the anchor a good many times.

Q. But your experience was entirely with a sailer?

A. As a captain.

Q. Well, have you ever run on a steamer?

A. Yes, sir.

Q. As an employe of a steamer?

A. I have been down—represented the San Francisco Underwriters up and down the Columbia and Willamette Rivers here. My duty carries me there nearly every day of the year.

Q. In charge of a vessel?

A. Not in charge.

Q. Have anything to do with the management of the vessel?

A. If I were on them—

Q. Just answer my question. Do you have anything to do with the management of the vessel?

A. Not until there is some point of danger reached.

Q. And then you take charge of the vessel, do you?

A. No, sir, I don't.

Q. You never have taken charge of a steamer up and down the Willamette River, and undertaken to navigate her up and down the river?

A. No, sir, that was not my business.

Q. Now, you don't think then that the collision between the Samson and the Henderson affected very much the speed of either vessel. Is that right?

A. The collision did not retard but very slightly the progress of the oil boat; they did the other ones.

Q. Why not—it did the other ones, you say?

A. Yes, sir, because it took the Henderson's away and the rock barge pushed her ahead of her, turned her over.

Q. It retarded the Samson but didn't retard—

A. No, I didn't say the Samson; I said the rock barge; the two rock barges shoved the Henderson away and pushed her over.

Q. The two rock barges shoved the Henderson—

A. Away from the oil barge altogether.

Q. Away from the oil barge altogether?

A. Yes, sir.

Q. And that retarded the—

A. Retarded the Henderson.

Q. —the speed of the Henderson?

A. The speed of the Henderson and the barges which hit her.

Q. And retarded the stone barges?

A. Yes, sir.

Q. But didn't retard the oil barge?

A. Didn't retard but very little.

Q. And you are of the opinion, Captain Crowe, that the Samson, if she came down the river at a speed from seven to nine miles an hour, and the testimony is variant between those two—

Mr. MINOR: Six.

Q. Well, from six to nine miles an hour, and she was coming down with about half ebb tide, and with the current, and the Henderson and her oil barge were going up against the current, and against the tide at approximately three miles an hour, you don't think that collision would have had the effect to retard at all the barge 93?

A. Oh, yes; I say it did.

Q. Now, then, if barge 93 had been backing for

half a minute to a minute.

A. She didn't back. She had no power to back.

Q. Why do you say that?

A. Because the oil barge has no power.

Q. Well, if the Henderson had been backing for half a minute to a minute before the accident, that wouldn't have had the effect to retard the oil barge?

A. Well, would retard her some, yes, sir. Give her a little bit longer, and she would have stopped it altogether, but she didn't have time to stop her.

Q. How is that?

A. Give the Henderson time, and she will stop her altogether. but half a minute, or three quarters of a minute—

Q. Or a minute?

A. A minute would change it.

Q. How much would it change it?

A. I think I said half a minute would retard it, probably, half a mile in its progress per hour.

Q. That is, she would be running then—

A. Two and a half miles an hour.

Q. (Continuing) Two and a half miles instead of three miles.

A. Three, yes, sir.

Q. How much would a minute backing affect her speed?

A. A minute would some more.

Q. Well, how much more?

A. Well, approximately I couldn't—

Q. Well, you are a great expert; now you tell us.

You are an expert seaman, and an expert steamer man, and I want you to tell us.

A. I never claimed to be an expert steamer man, but do of sailing ships.

Q. You are a first class sailor, and claim—I understand from your testimony you claim to have had a good deal of experience that made you a good expert on steamers. How much would backing the Henderson a minute affect the speed of the oil barge?

A. One half; about one half of her speed would be checked.

Q. So she would be sailing down at about a mile and a half an hour at the time of the collision?

A. Yes, I think the Henderson in that condition, taking the conditions there against the current, if she backed a full minute, she would retard the speed of the oil barge and Henderson just about one half.

Q. Then she is running about a mile and a half at the time of this collision if she were running three miles before; if she had backed a minute before the collision?

A. Exactly.

Q. How much would the impact of the collision retard the vessel?

A. Yes—

Q. Wait a minute. The collision has taken place, and I will assume it has taken place as you indicate, or has taken place by the port stone barge striking the Henderson a glancing blow or striking the oil barge a glancing blow, sliding along the oil barge,

the port barge coming in contact with the stem of the Henderson just ahead of the house, just a short distance ahead of the house, three thousand tons and the way of the vessels besides, and the weight of the Samson jamming into the Henderson and the oil barge, as you have mentioned, how much would that retard the speed of the oil barge and the Henderson?

A. The way those lines, where they are tied on the vessel, the size of the lines, and they being tight, the way of the two objects in motion, with such a glancing blow, would retard—it would stop—stop the Henderson, but it would retard that oil barge almost nothing.

Q. Would it retard it anything?

A. It would a little, yes; not very much, though.

Q. Now, then, if the oil barge was not retarded, and she went along at three miles an hour after the collision, and her anchors were dropped, one of them weighing five tons, and the other seven tons, what effect would that have on the anchor chains?

A. If she had an anchor weighing five tons, and the other one seven, they would do a lot of work, but it is not within my reason to suppose that there were any such anchors on the oil barge as seven ton anchors.

Q. Let us assume that the oil barge had a seven ton anchor, and a five ton anchor, and both these anchors were let go when she was running three miles an hour, it would break the anchor chains, wouldn't it?

A. That would depend entirely on the holding ground, whether that anchor would catch anything.

Q. Well, if the anchors caught, it would break the anchor chain, wouldn't it?

A. With that weight and motion going three miles an hour and the anchor catch, so the anchor couldn't go, one of two things would happen—the chain would break, or cut the hawser pipe down, and plating.

Q. Now, then, Captain, if as a matter of fact, when the anchors were let go, the vessel came up without any perceptible jerk, that is an indication she was going very slowly when she anchored, isn't it?

A. If the barge, the oil barge, stopped without any strain, she wasn't going very much.

Q. You saw some paint, you say, on the guard rail of the Samson, or the port barge?

A. No, sir.

Q. Where did you find any evidence of paint then on either the barge, stone barge of the Samson?

A. I didn't make that assertion.

Mr. C. E. S. WOOD: He said he didn't see the barges. He was told about the paint.

A. I seen the mark on the oil barge where the paint had been chafed off. I went the next day to go down the river, I think the next day. She was going down the river. I was in a boat, but I didn't get very close, but I say the paint rubbed off.

Q. How much paint was rubbed off?

A. Off the oil barge?

Q. Yes.

A. Quite a mark.

Q. How wide a streak was it, and how long a streak was it?

A. One place, I should say, about that diameter (indicating).

Mr. C. E. S. WOOD: Guess it, so as to get the guess in the record.

A. Probably 18 inches in one place. There was a score more or less scraped along the oil barge.

Q. What do you mean by score?

A. Scraping the paint; rubbing the paint along the side of the vessel.

Q. Was it yellow paint on the oil barge? Was the oil barge painted at all yellow?

A. I think a yellow streak.

Q. What?

A. I think there is a yellow streak along the oil barge.

Q. What is painted yellow on the oil barge? What was painted yellow on the oil barge?

A. I don't know.

Q. Did you see any yellow paint off the oil barge?

A. I don't remember.

Q. What is your best recollection?

A. I don't remember seeing any yellow paint rubbed off.

Q. How long was this streak in length? This streak of black paint on the oil barge stripped off?

A. The best of my knowledge—the vessel passed at some distance going down the river—

Q. How far from you was she?

A. Probably 100 yards.

Q. And you saw—

A. I saw the paint rubbed as a mark on the port side of the barge—of the oil barge.

Q. Now, Crowe, the sliver you spoke of having seen in the stem of the Henderson?

A. Yes, sir.

Q. You saw that sliver in the stem, did you?

A. I surely did.

Q. Where were you when you saw the sliver?

A. I saw it at different times.

Q. Well, when you first saw it?

A. I saw that, if I remember correctly, just after she passed through the Steel Bridge.

Q. That is after she came up; after they had raised her and come up?

A. That is the best of my recollection, that just—I jumped aboard of her as she was going through the draw of the old Steel Bridge, and to the best of my recollection, it was a few minutes after that I saw the sliver. I say it at different times afterwards, and took a photographer to get a photograph of it, but I failed—

Q. Have you a photograph of the sliver?

A. I took a photographer there to get a photograph of the vessel before she was hauled out on the ways, but we didn't succeed in getting it. We couldn't get a snap shot of her.

Q. How much of a sliver was it?

A. A little piece of bright clean wood about four inches long.

Q. Can't you give a little sample of that sliver?

A. Take about four inches of that pencil, and split the pencil in two, that would represent nearly the size of the sliver.

Q. You mean the sliver is the size of that pencil?

A. I said split the pencil in two, get a size half the size of that pencil, and four inches long, it would represent the size of the splinter very closely.

Q. Now, I will pay for that pencil, if you will sliver off what you say was the sliver in the stem of the Henderson.

A. You can't have the pencil.

Q. What?

A. The pencil wouldn't be any good to you. Take one of those little pieces, and I will give it to you. But the piece of wood wouldn't—wasn't a solid piece. It was a sliver that had been taken or torn off another larger piece, and that is about the size of it; about four inches long and near about half the size of that pencil.

Q. As a matter of fact, Captain Crowe, that sliver was some five feet above the water line, wasn't it?

A. No.

Q. How far above the water line was the sliver, then? You say it was in the stem of the boat?

Q. About three feet; about two or three feet above that. I won't put that no inches.

Q. Between two and three feet?

A. Above the water, float line of the Henderson as she was in the water.

Q. And you say it was not in the boat some five feet above the water line?

A. No, it was not at five feet above the water line.

Q. How did you see it. Did you lean over the bow of the boat? How did you observe it?

A. Yes, sir, I leaned over the forward end of the boat, and looked down on her two or three times and I went in a boat down approaching it from ahead of the Henderson so as to see.

Whereupon proceedings herein were adjourned until 2 p. m.

Portland, Ore., Tuesday, Jan. 14, 1913, 2. P. M.

CAPTAIN CROWE resumes the stand.

Cross Examination continued.

Questions by Mr. C. E. S. WOOD:

Where was the steamer Henderson, or the wreck of the steamer Henderson at the time you first made the personal acquaintance of the schooner?

A. She was lying near the southeast corner of Tenas Illihee Island.

COURT: I understood you to say you first saw her down here when first towed to the east side.

A. That was the first time I saw the splinter in the iron stem.

Mr. SNOW: Was that coming through the bridge?

Q. That was after she had arrived out here at Portland as a wreck?

A. Yes, sir.

Q. When you answered Mr. Minor in relation to seeing the red light and the green light, etc., on these different occasions, you assumed that the places pointed out to you and the courses on the chart were accurate?

A. Just as he described them.

Q. As a matter of fact, if one barge remained stationary, and an approaching boat with her side lights burning at night was completely turned around on a pivot in a circle, the entire circle of 360 degrees, she would show both her lights to every point of the horizon at some time or another, would she not?

A. Yes.

Q. So it altogether depends on the relative angle that the boat has at the moment?

A. Which the vessels have to each other.

Mr. MINOR: Captain, if the speed of the oil barge and the Henderson was four miles an hour, rather than three, how much would the several matters which have been called to your attention check her momentum?

A. Wouldn't check her near so much; the greater the speed, and the greater the velocity, the easier the lines attached would part, the quicker they would part.

Witness excused.

FRED PEDERSON, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

## Direct Examination.

Questions by Mr. MINOR:

What is your occupation?

A. Oiler and fireman.

Q. Been a seafaring man for some time?

A. Yes, sir.

Q. How long?

A. Seven years.

Q. And what experience have you had as a seafaring man?

A. My experience has been all in the engine room, the engineer's department.

Q. Engine room?

A. Yes, sir.

Q. What vessels have you been on besides the Samson?

A. I was on the George W. Fenwick for two years, was on the General Hubbard for about three months; I have been on the Samson three different times; about two and a half years; three years this last time, and on two other occasions I was there about two months on each, I think; probably three. I don't remember.

Q. Were you on the Samson at the time that the Samson's barges collided with the Henderson and its barge?

A. Yes, sir.

Q. I wish you would tell the Court what you saw that night, and what you heard.

A. I was sitting in the doorway on the port side

of the Samson. I heard the Henderson whistle. The whistle in that direction; I couldn't say whether the Henderson or whether the oil barge, and I immediately went out on deck to see which boat was approaching, and as I stepped out I couldn't see her, and I walked up forward, and as I got very near the forward end of the house, I saw two green lights and the ship, or two objects, boats, just the outline. I couldn't see everything, so dark; and I stood there for awhile. Pretty soon they blew one long whistle to pass again, and a few seconds after that, the crash came. They came together; that is immediately after the second whistle. It looked to me like the Henderson and the oil barge changed her course very rapidly, and swung very rapidly starboard, and swung right into the barges.

Q. Now, did you hear the first whistle of the Henderson answered by the Samson?

A. Yes, sir.

Q. How was it answered?

A. One long whistle. ....

Q. And how long after you heard the whistle of the Henderson?

A. Well, the second whistle?

Q. After you heard the first whistle of the Henderson, how long before the Samson whistled?

A. Oh, a very few seconds.

Q. Did you hear the second whistle of the Henderson answered by the Samson?

A. Yes, sir.

Q. How promptly was that answered?

A. Almost instantly.

Q. Now, from where you were, could you see what part of the flotillas struck, say, of the Henderson and her barge, and the Samson and her barges?

A. Yes, sir.

Q. Tell the Court as nearly as you can what you did see?

A. Why, as near as I could see, the port barge just grazed the oil barge and so struck the stem of the Henderson, and the middle barge mashed into the port side of the Henderson.

Q. Did you see the oil barge after the crash?

A. Yes, sir.

Q. What was she doing when you saw her?

A. She had broken loose, and was going by the Samson.

Q. Going by the Samson?

A. Yes, sir.

Q. Could you tell whether she was going by rapidly, or not?

A. She seemed to be going by rapidly, yes, sir.

Q. Now, after she passed you, did you watch the oil barge further?

A. Yes, sir.

Q. Did you hear the anchors let go on the oil barge?

A. No, sir.

Q. Did you hear any order from the Henderson or from the oil barge to let go the anchors?

A. No, sir.

Q. Where did you go after the collision?

A. I went back into the engine room. I rushed back into the engine room, and spoke to the engineer, and stepped right out on deck.

Q. Which side did you go in on then?

A. Went in on the port side, and came out on the port side.

Q. Did you see the Henderson when you came out again?

A. Yes, sir.

Q. Where was she from you?

A. She was about two or three points off the port bow of the Samson, backing.

Q. Backing?

A. Yes, sir.

Q. When you first saw the Henderson and the oil barge, I understand you saw two green lights?

A. Yes, sir.

Q. Did you see any red lights?

A. Not at the time I first saw the green lights. I saw red lights after the Henderson and her barge swung.

Q. How long was that before the collision?

A. Just a very few seconds.

Q. Could you tell where those two lights, those two green lights, were?

A. One of them was on the oil barge, and one was on the Henderson.

Q. How long did you remain on the port deck of

the Samson when you came up the second time?

A. About two or three minutes. I couldn't say which.

Q. Until what time did you remain there? Until what event happened? Were you there at the time the Henderson sunk?

A. Yes, sir.

Q. When her lights went out, were you?

A. Yes, sir.

Q. You think that was two or three minutes, do you?

A. I don't think it was over three minutes.

Q. Now, after the collision, what was the Samson doing?

A. She was fixing her barges some way. They were anchoring the barges.

Q. Were her engines working?

A. No, sir.

Q. Did you hear any bells given on the Samson prior to the collision?

A. Yes, sir.

Q. What bells did you hear?

A. Stop, and full speed astern.

Q. Were those bells obeyed, do you know?

A. Yes, sir.

Q. Were those bells given before or after the second whistle was blown?

A. Before.

Q. Before the second whistle was blown?

A. Yes, sir.

Q. Now, after that, did you hear any other bell given on the Samson?

A. Just the stop bell.

Q. The stop bell; and how long was that given after the collision?

A. Almost instantly after the collision; probably one second.

Q. Did you go over to the Henderson that night?

A. No, sir.

Q. You remained on the Samson?

A. Yes, sir.

Q. Did you see the rock barges of the Samson the next morning?

A. Yes, sir.

Q. When they were picked up?

A. Yes, sir.

Q. Now, describe to the court about where they were when they were picked up.

A. Well, now, there were two barges I didn't see. I misunderstood your question in that way. I thought you meant after they were picked up.

Q. Where were they when they were picked up?

A. I don't know where the two barges were, but the one barge was very close on that sand bar there; just a little nose sticking up through the water; probably would be submerged in high tide; very close to the shore.

Q. Which shore was that on?

A. On the Puget Island side.

Q. On the starboard side of the Samson as you go

down?

A. Yes, sir.

Q. Could you form any idea about how far they were from that shore?

A. The two barges?

Q. The one barge.

A. The one barge was about between 100—well, I should say about 150 feet; just a rough guess.

Q. Did you hear any orders given on the Samson in regard to answering the barges?

A. Yes, sir.

Q. Who gave the orders?

A. I couldn't say for sure, but I very distinctly remember hearing that order given, but I couldn't say who gave it.

Q. Did you see Captain Church that night?

A. I think Captain Church gave the orders.

Q. Did you see Captain Church that night after the accident?

A. Yes, sir.

Q. Did you see the boat lowered from the Samson to go to the Henderson?

A. Sir?

Q. Did you see the boat lowered from the Samson to go to the Henderson?

A. Yes, sir.

Q. Where were you when the boat was let down or lowered?

A. At the time the boat was being lowered, I was on the starboard side. I had went around to the star-

board side at the time of lowering the boat. I thought I might help in the lowering of the boat.

Q. Did you take any part in the lowering of the boat?

A. No, sir; excepting I worked one of the pins out of the braces that holds the davits up.

Q. Mr. Pederson, if an order had been given on the oil barge to let go the anchors, do you think you would have heard it from where you stood at the time of the collision?

A. Yes, sir.

Q. If the anchors had been lowered before you went back into the engine room, had been let go before you went back in the engine room, do you think you would have heard them running out?

A. Yes, sir.

Q. Did you hear them at all?

A. No, sir.

Q. Did you notice any of the rock barges the next morning to see what condition they were in?

A. Yes, sir.

Q. Which of them did you notice?

A. I noticed the three.

Q. What did you find on these barges, or what did you find the condition of these barges?

A. The stem, or the bow of the port barge was rolled up just the least bit, and there was a mark that was made by the Henderson; it looked like the bow of the Henderson had cut into the bow of the barge, and the middle barge, the woodwork was kind of drove

in and rolled up; mashed in.

Q. Do you remember seeing any paint on the port barge?

A. No, sir.

Q. You didn't notice that?

A. No, sir.

Q. Did you go over to the oil barge the next morning on the Samson?

A. Yes, sir.

Q. Did you look at her at all when you got over?

A. I paid very little attention to her.

Q. You couldn't say whether you saw any paint scraped off of her or not?

A. No, sir, I seen her a few days after going down the river and I notice a paint spot—a spot where the paint was rubbed off.

Q. Mr. Pederson, did you notice in which way, or in what direction as far as the shore is concerned, the Samson and her barges were going at the time you heard the first whistle and went out on deck?

A. No, sir, I couldn't say.

Q. At the time of the blowing of the second whistle, did you notice them?

A. No, sir; I merely glanced at the shore, and I remember seeing the shore, but I didn't pay any attention which way the boats were headed, or anything that way.

Q. Did you prepare yourself a diagram showing the way the boats looked to you?

A. Yes, sir.

Q. Have you got that?

A. Yes, sir.

Q. I wish you would bring it.

A. (Producing sketch) This is a very rude sketch of it.

Q. You have got this marked Figure 1, Figure 2 and Figure 3.

A. Yes, sir.

Q. Figure 1 is what position?

A. Figure 1 position at the time of the second whistle, as near as I can remember.

Q. Figure 1 at the time of the second whistle or the first whistle?

A. The second whistle. Now, I haven't got this exact. This is only a mere calculation. I believe this should have been over just a little bit further. It is just a rough sketch I sketched out last evening, I thought might show.

Q. And you think the Henderson and her tow should be shoved a little further up to the left?

A. Just a little over.

Q. And that, in your judgment is about the way the two flotillas were approaching each other?

A. Yes, sir.

Q. On this I see you have red lights. Did you see that at that time?

A. That time as I came up on deck? No, sir; the first time I seen the green light, I couldn't see the red light.

Q. And at the second whistle, what lights could

you see then?

A. Just the green lights.

Q. And you say you saw two green lights?

A. Yes, sir.

Mr. ERSKINE WOOD: Two green lights?

Q. Yes, two green lights is what he testified before. What is figure 2?

A. That represents, as near as I can remember, the position of the boats at the time of the crash.

Q. And Figure 3?

A. The position of the Henderson after she became submerged. Very nearly submerged after sinking.

Q. When the lights were still burning?

A. At the time of the rescue that was the position in relation to the two boats.

Q. Were the lights still burning?

A. No, sir; she was lying on her starboard side.

Q. What did you see her from—the light?

A. From the search light. They had a search light. I was standing on the stern of the Samson, and looking at the Henderson.

Mr. MINOR: I offer the sketch in evidence.

Marked "Claimant's Exhibit C."

Mr. MINOR: In connection with the testimony of this witness, I desire also to offer in evidence, a portion of Pilot's Rules as follows: "Barges or canal boats towing alongside a steam vessel shall, if the deck, deck houses, or cargo of the barge or canal boat be so high above the water as to obscure the

side lights of the towing steamer, when being towed on the starboard side of the steamer, carry a green light upon the starboard side; and when towed on the port side of the steamer, a red light on the port side of the barge or canal boat; and if there is more than one barge or canal boat abreast, the colored lights shall be displayed from the outer side of the outside barges or canal boats."

In connection therewith, I wish to offer in evidence Article II as follows: "A steam vessel, when underway, shall carry (a)"—I will omit (a), it is agreed upon. "On the starboard side a green light, so constructed as to show an unbroken light over an arc of the horizon ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points on the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red side lights shall be fitted with inboard screens, projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow \* \* \*

Art. III. A steam vessel, when towing another vessel, shall, in addition to her side lights, carry two bright white lights in a vertical line, one over the

other, not less than three feet apart—" I don't care to read any more into the record than that; just to show in towing another vessel, she should show, in addition to her side lights, these lights mentioned. It is to explain the testimony of this witness.

Q. Now, Mr. Pederson, about how large are those two boats that you mentioned having served on?

A. The General Hubbard was something over 2,000 tons. The George W. Fenwick was something over 2,000 tons: I don't know exactly.

Q. What kind of vessels were they, and what business were they engaged in?

A. In the lumber trade.

Q. Did they have their own motive power?

A. Yes, sir.

Q. Now, have you watched these vessels from time to time to see how far they would drift?

A. Yes, sir.

Q. After their wheels were stopped?

A. Yes, sir; in making a landing I have noticed it, yes.

Q. At what places have you noticed that?

A. Astoria, San Francisco, Puget Sound, San Pedro.

Q. About how long were those vessels?

A. They were—one of them was 298 feet, I believe that was it; that is the George W. Fenwick was 298. The General Hubbard, I think was 260 some odd feet. Now, I am not certain as to that.

Q. What beam did they have?

A. 45 foot beam.

Q. What water were they drawing at that time?

A. Full loaded it was 21 feet.

Q. How far would these vessels drift after the motive power was stopped at the time you have watched them?

Mr. C. E. S. WOOD: Objected to as incompetent, as it doesn't apply to this particular case.

COURT: I think that would be more in the nature of cross examination. If you want to ask his opinion regarding these vessel's drift.

Q. Now, from your experience with those vessels, about how far, in your judgment, would the oil barge drift, assuming that she was going at three or four miles an hour, and that she had been suddenly cut loose, as you have described from the Henderson, and was going against an ebb tide—you remember the ebb tide that night—and that she had no motive power of her own; had been backed by the Henderson for not more than a minute before the collision, and was lashed to the Henderson with one head line, seven inches in circumference, Manila rope, with pendant seven eighth inch metal; with two breast lines; I believe they were seven eighths or three quarters—three quarters, I believe, three quarters inch metal, with two stern lines just the same as the head line, and a tow line which was one inch metal.

A. Well, with regards to that, I don't believe that those lines would check her headway the least bit; that is, it wouldn't be noticeable. The breaking of

those lines wouldn't check those vessels. I have seen lines break on several occasions in very nearly the same case, but as far as the vessel drifting, I believe it would drift at least one quarter of a mile against those conditions. As far as the lines are concerned, I don't believe that they would check the speed of the vessel at all. Be hardly noticeable.

Q. When these rock barges and particularly the rock barge that you noticed being picked up, when that was picked up, was it at anchor?

A. Yes, sir.

Q. Did you hear any order given from the oil barge at all that night?

A. Yes, sir.

Q. What order did you hear given?

A. I heard somebody give the order hard aport, after the oil barge broke loose from the Henderson. That order was repeated. Hard aport was given twice.

Q. How long was that after the collision?

A. But a very few seconds. Probably two seconds, or three seconds.

#### Cross Examination.

Questions by Mr. SNOW:

Mr. Pederson, if you were going down the river at between six and nine miles an hour, and I am coming up the river at approximately three miles an hour; you are going with the current, and with the ebb tide, and I am coming up against the current, and against the ebb tide, you don't mean to say, do you, that you

can tell whether I am passing you rapidly, or you are passing me rapidly?

A. No, sir, I didn't say that.

Q. You testified before the Inspectors, did you?

A. Yes, sir.

Q. At the trial of Captain Jordan after this collision?

A. Yes, sir.

Q. Now, when this collision took place, between the Henderson and the Samson, what line on the Henderson, I mean the lines by which the barges were lashed, would break first?

A. I couldn't say. I would naturally suppose that the head line would carry away first.

Q. The head line. Now, the head line was seven inches in circumference, Manila rope?

A. Yes, sir.

Q. What line would next break, do you think?

A. Well, that would be pretty hard to judge; the breast lines would probably be carried away next, but there would be so very little difference in the time—

Q. How about the tow line of the vessel?

A. Well, the tow line would have to get a good deal of slack before she would fetch up on that tow line.

Q. What do you mean?

A. The tow line would be leading from the oil barge forward, and the oil barge would have to drift naturally the length of that tow line by this other

steamer before it would fetch up on that tow line.

Q. Then the vessels would have to separate a little before any strain came on the tow line?

A. Yes, sir.

Q. Then the probabilities are, the tow line would break next after the head line?

A. After the breast line, I should think.

Q. What?

A. I should think after the breast lines.

Q. Well, then, after the breast lines are broken, these vessels would separate a little, and the tow line would break.

A. Yes, sir.

Q. The last lines to break would be the two stern lines, wouldn't they?

A. Yes, sir.

Q. And you don't think then, if you were going down the river at from six to nine miles an hour, with the tide and with the current, and the Henderson was coming up the river against the tide, and against the current, at say, approximately three miles an hour—some of the witnesses put it as low as two and a half miles an hour—that the breaking of these lines would have any tendency to check the headway of either the Henderson or the oil barge?

A. I don't believe it would be noticeable

Questions by Mr. ERSKINE WOOD:

Mr. Pederson, did I understand you to say you were fireman or oiler?

A. I have done both.

Q. I mean at that time.

A. I was oiler at the time.

Q. And where were you at the time of the first whistle?

A. Sitting in the engine room door.

Q. On the port side?

A. On the port side.

Q. So you could see out over the water?

A. No, sir.

Q. What could you see?

A. I was facing in towards the engine. It was cool there. I was sitting in what would be a nice cool draft.

Q. Then you heard the one whistle, and you stepped out on the main deck?

A. Yes, sir.

Q. And what did you see then?

A. I just saw the darkness in front of me; that is all. I don't remember of seeing—

Q. When did you walk forwards?

A. Very nearly immediately after I stepped out. Practically stepped right out of the door and started forward.

Q. Forward on the bow of the Samson?

A. Forward to the bow of the Samson; walked to the bow of the Samson.

Q. Did you go up on the bow of the Samson?

A. Yes, sir.

Q. And you stood there until you heard the second whistle?

A. Yes, sir; until after the collision.

Q. Stood there until after the collision?

A. Yes, sir.

Q. That was on the main deck of the Samson?

A. Yes, sir.

Q. Then what did you do?

A. At what time?

Q. After the collision?

A. After the collision I run back into the engine room and told the engineer we had hit the Henderson, and right out on deck again. I went right out on deck again.

Q. Which part of the deck did you stay on this time?

A. I walked up, I guess as far as midships.

Q. And stood there watching things?

A. Yes, sir; gradually working back as the Henderson was drifting by and sinking. At the time, I naturally kept watching back towards the engine room door. I don't remember whether I just exactly stood in one spot. I might have stepped around a step or two.

Q. When did you see these two green lights that you have spoken of?

A. When I got up on the bow of the Samson.

Q. How far away were the boats then?

A. Oh, they were probably six or seven hundred feet away, probably more; I can't judge distances in the night, especially on the water.

Q. That was very shortly after the first whistle?

A. Yes, sir.

Q. Did you see the red light at that time?

A. No, sir.

Q. When did you see the red light?

A. I saw the red light when the Henderson changed her course and swung heavily to starboard; swung there rapidly to starboard.

Q. When did she do that?

A. About a second or two before the crash.

Q. That is the first time you saw the red light?

A. Yes, sir.

Q. Did you continue to see the two green lights?

A. Not after I saw the red light.

Q. Where were those two green lights?

A. One of them was on the bow of the oil barge. The other was on the starboard side of the Henderson, about the place where her green lights were located. I couldn't name it exactly.

Q. There was some excitement, I suppose, after the collision, wasn't there?

A. Very little.

Q. You ran back and told the engineer they had a collision?

A. Yes, sir.

Q. Captain Church came on deck just about that time, didn't he?

A. Before I ran back.

Q. He gave some orders?

A. Yes, sir.

Q. Was there some shouting and noise?

A. Very little shouting.

Q. Did you hear the steam blowing off the Henderson?

A. Yes, sir.

Q. You were interested, naturally, in your own boat, and which way she was going, and that, weren't you?

A. I can't say I was interested; nothing more than watch—

Q. What damage had been done to her?

A. Watching the proceedings of the boats, that is all.

Q. Don't you think those anchor chains might have been let go thirty seconds after the collision, and you not heard it?

A. At the speed that the Samson passed the oil barge, or the oil barge passed the Samson—

Q. You couldn't tell which was passing?

A. I couldn't tell which one was passing, but in thirty seconds she would go a long ways. It might have been quite possible that them anchor chains might have been let go after I stepped in the engine room. I never heard them, so I don't know when they dropped.

Q. You would naturally be interested in your own boat, and wouldn't be particularly interested in the other boats.

A. I think I was paying more attention to the other boat than I was to my boat.

Q. How far away was the Henderson when you

noticed her after the collision when she was torn loose?

A. When she was torn loose?

Q. Yes.

A. She was right in front of the barges.

Q. Right in front of your two stone barges?

A. Yes, sir.

Q. And then she swung away very quickly with her bow around toward you, didn't she?

A. She backed away from the barges, formed very near half a circle in backing.

Q. Did she swing, or did she back?

A. She backed.

Q. Did you see her wheel?

A. No, sir.

Q. How did you know she was backing?

A. Because I could hear her exhaust.

Q. You couldn't tell what she was doing?

A. She couldn't go in any other direction and be moving her engines in that position.

Q. You don't know exactly what she was doing, except you heard her exhaust?

A. I heard her exhaust and movement which she made, and the direction in which she went.

Q. That may have been caused by the blow, mightn't it?

A. I don't think so. The blow would naturally cause her to go the other way. If she had not backed, she would have went down, I believe, passed on the starboard side of the Samson, instead of port side.

She backed around in a position and sunk on the port side of the Samson.

Q. Did I understand you to say she sank in about two or three minutes after the collision?

A. No, I don't think so.

Q. You didn't testify to that?

A. I don't think it could have been over two minutes. No, it probably was. I wouldn't know for sure: I am no judge of time.

Q. I am not trying to pin you down to second, but I want your best idea how long it was after the collision until she sank.

A. Well, I would say two minutes. That is as near as I could get it.

Q. How long after the collision was it that you heard this order that you claim on the oil barge, to put the helm hard aport?

A. Very few seconds.

Q. Very few seconds?

A. Yes, sir.

Q. Could you tell where this order came from?

A. It sounded to me like it was on the after part of the oil barge.

Q. After part of the oil barge?

A. Yes, sir.

Q. Now, about how far away was the oil barge then?

A. Well, not being able to judge distances in the dark, I couldn't say.

Q. Well, you see every witness that is on the

stand has to give some idea—that is to say, he doesn't have to, but he does give some idea of the distance just in order to enable us to get at the facts as near as we can. Now, just your best judgment as to how far away she was.

A. She may have been between two and three hundred feet.

'Q. And where were you standing then?

A. I heard that order given as I was going back into the engine room.

Q. To tell the engineer that the collision had occurred?

A. Yes, sir.

Q. Now, Captain Sorley, of the oil barge, has testified that he heard the danger whistle blowing, and jumped up out of bed, and was running up the stairs on the main deck of the oil barge when the crash came, and he leaped out on deck, got there as I remember it, a very few seconds after the crash came, and shouted forward. He was on the after end of the oil barge, and he shouted forward to let go the anchors. Don't you think it was possible you confused this order with this supposed order of hard aport?

A. No, sir; no, sir, that was very plain. I heard it as plain as if you were talking.

Q. Did it come from the stern of the oil barge?

A. Yes, sir.

Q. Are you working for the Columbia Contract Company now?

A. No, sir.

Q. When did you stop work for them?

A. In July.

Q. Last July?

A. Yes, sir.

Q. Expect to work for them again?

A. I don't know.

Q. You do not know?

A. No.

Q. Where are you working now?

A. At the present time I am not working.

Q. You say that your boat was backing full speed astern before the second whistle?

A. Yes, sir.

Q. How long before the second whistle?

A. Probably half a minute. As near as I can tell.

Probably it wasn't that much.

Mr. SNOW: How long did you say?

A. Probably half a minute.

Mr. ERSKINE WOOD: Or less, he says.

Q. In this diagram which you have drawn, Claimant's Exhibit C, you have a figure here marked one. At what time does that represent the positions of the boats?

A. About the time of the second whistle.

Mr. MINOR: It is marked on the exhibit.

Q. And they were how far apart, in your opinion, then?

A. Between 200 and 250 feet, I should think. Probably it might be 300 feet. I couldn't say. I couldn't judge distance on the water; pretty hard to

judge distance on the water at any time, either daylight or dark.

Q. And it was just after that position of the boats that her red light came into view and her green lights disappeared?

A. This probably could be over here a little bit further and be correct. This is a mere sketch, a rough sketch.

Q. I know rough, but I would like to get as near as you can make it. Perhaps you better take your pencil and change as you would like to have it.

A. He came down here and changed his course, and when he changed his course, swung to starboard here, about like that. Then I could see his red light, and the green lights were shut out.

Mr. C. E. S. WOOD: Can't you draw a line, a dotted line, making that change?

A. Yes, sir. (Does so.) I don't say I can put it exact.

Q. I know that.

A. That would be pretty hard to do unless you make sketches of different times of the swinging of the boats, because the stern of this barge would naturally swing in a circle. The stern would naturally go over this way a whole lot further than the bow would go this way.

Mr. C. E. S. WOOD: The stern would swing on the bow as a pivot. Is that the idea? The stern would swing the most?

A. Yes, sir.

Mr. C. E. S. WOOD: Just make a dotted line of the course of the bow, just illustrating the way she would swing, following the bow. Just take the bow for your line.

A. I would have to make another sketch. I just made a rough sketch of this last night, just merely to show. Just a mere outline of what—I can set this further over, and make it show more plainly.

Q. All right; do it.

A. That would take time.

Mr. C. E. S. WOOD: Make it in dotted lines or blue pencil. Make it broken lines. That would distinguish it from the other.

A. That would be the position of the oil barge. That would naturally lead right down here. The stern would naturally drift and be in this direction.

Mr. C. E. S. WOOD: Is this dotted line the course of the swing?

Q. The course of the bow?

A. Yes, the bow; the stern would naturally swing over much further and faster.

Mr. C. E. S. WOOD: The swing of the stern would be over this way?

A. Yes, sir.

Mr. ERSKINE WOOD: Witness marks on diagram "oil barge" in pencil, as the correct location of the oil barge, and the dotted line represents the course of the bow and the stern swinging.

A. Not exactly correct.

Q. Approximately. How was your boat swinging

at that time?

A. She was swinging to starboard.

Q. Pretty hard?

A. I couldn't say exactly how hard. I noticed just from a glance at the shore, that light, that she was swinging. I never paid much attention to see how fast; my eyes were on the Henderson—on the oil barge. I was standing about there.

Q. I don't understand, and I know this is only approximate. I am not trying to tie you on the chart, but if this is approximately correct, I don't understand how the oil barge and the Henderson swinging to starboard, and you swinging to starboard, starting from a point 300 feet away, the middle barge would ram the port side of the Henderson's bow.

A. Naturally, as the boat swinging, she would naturally swing her stern right around.

Q. You were swinging to the starboard yourself?

A. Yes, but going ahead. Probably swinging a little bit like this, and this boat swinging in this direction. The stern of this barge would go right around in that direction, and naturally go around in there.

Q. You think then starting from a position 300 feet away, that this bow of the oil barge, 300 feet from your flotilla—

A. I don't think she was 300 feet at the time she changed her course. I didn't say that.

Q. How far was she then, at the time she changed her course?

A. Probably only between 150 and 200 feet, as near as I can judge.

Q. That is when you noticed her change her course pretty suddenly?

A. Yes, sir.

Q. If she did that, she must have had her helm hard aport at that time.

A. At the time she was swinging, I think she had her helm hard aport. I don't think she was carrying any port helm up to the time she made that quick turn.

Q. That was long before you heard this supposed order to put her hard aport?

A. I didn't hear any order at that time.

Q. I know, but after the collision. This was a long time before that.

A. Yes, sir. That order I heard on the oil barge was after she had broken loose for this position. That is, after she was drifting down by the Samson here. At the time the oil barge was right down even with the stern of the Samson.

Q. With your flotilla and the Samson in the position shown on Figure 1, and the oil barge and the Henderson shown as you have corrected it here in pencil mark, on Figure 1, with the bows 150 feet apart, you think then the Henderson—you then think that the stern of the oil barge and the Henderson swung so far to their own port that they got at an angle in which the middle barge of the Samson struck the port bow of the Henderson, and they were only

150 feet away to start with?

A. This diagram should show the position at the time of the second whistle, but it was after the second whistle, a few seconds after the second whistle before the Henderson changed her course, and it would naturally bring her down in here, closer; probably within 100 feet.

Q. What do you mean now? The bow of the oil barge?

A. The bow of the oil barge.

Q. Within 100 feet of what?

A. Closer. Come in within 100 feet of the bow of the Samson's tow.

Q. Before they began to swing?

A. Before they began to swing, yes, sir.

Q. Then while the two boats were going a space of 100 feet, the Samson traveling, we will say, at seven miles an hour, and the oil barge at three miles an hour, while they were going the space of 100 feet, and your boat on a port helm, it was possible for the Henderson and the stern of the oil barge to swing so far to port as to catch the blow from barge 27 on the port bow of the Henderson?

A. I don't know anything about the number of the barges.

Q. Well, the middle barge.

A. Yes. To make this more clear, I wish to correct this course here, if I have that right.

Q. Sure.

A. I will put the position at the time—we will

suppose that the helm was thrown hard aport on the oil barge. We will put that position about here; this diagram is at the time of the second whistle, not at the time the course was changed. The course was changed after the second whistle.

COURT: At the time of the second whistle, you think they were 250 feet apart?

A. Probably more. I am no judge of distance in the dark. It might have been 400 feet. Stepping out of a bright engine room door, been working in the bright engine room, into the dark, the distance I couldn't tell.

Q. Does A, as marked on this Figure 1, Claimant's Exhibit C, represent your idea of the position of the bow of the oil barge at the time you noticed her swinging—

A. Yes, sir.

Q. (Continuing) Suddenly to her own starboard?

A. Yes, sir.

Questions by Mr. SNOW:

I will examine this witness touching his testimony before the Inspectors. You remember testifying before the inspectors, Pederson, do you?

A. Yes, sir.

Q. I read from a portion of your testimony at that examination, as follows: "Q. Did you see any barge strike the Henderson? A. Well, I seen them come together; that is all; I could not see which barge struck first or which one struck last; it was too dark.

Q. Did you see any of the rock barges strike the oil

barge? A. No, sir. Q. You then didn't see anything excepting the boats come together? A. That is all. Q. You don't know where they struck? A. Well, I know the place when I am there. Q. Do you know where the rock barges struck the Henderson? A. Struck the Henderson in the side. Q. But you don't know what barge struck her? A. No, sir." Did you so testify before the Inspectors?

A. I probably did.

Q. Is that statement correct, as you testified then, or is it correct as you testify now, the middle barge struck the Henderson?

A. The middle barge struck the Henderson.

Q. Then you were not correct when you testified before the Inspectors?

A. I probably misunderstood the question.

Q. You probably misunderstood the question then, is the reason you answered in accordance as I have read your testimony before the Inspectors?

A. Yes, sir.

Q. You listen to this, please: "Q. You don't know whether it was amidships, or abaft of midships, or forward of amidships," speaking of the place where the collision took place. "A. It was forward of amidships. Q. It was forward of amidships? A. Yes, sir. Q. How do you know that? A. Because I could see it. Q. You could see that? A. From the lights aboard of the boat, and the shape of the boat. Q. But you could not see which barge? A. No, sir. Q. The same light which gave you evidence as to where it

struck on the Henderson would not give you evidence as to which barge it was? A. No, sir. Q. You could not see that? A. No, sir. Q. You are sure though it struck her forward of amidships? A. Yes, sir. Q. And you didn't see it strike the oil barge? A. No, sir. That would be very hard to see on account of the darkness." Did you so testify before the Inspectors?

A. I think so.

Q. What?

A. I think so.

Q. Now, was that true?

A. Why, in that statement I meant that I couldn't say exactly to the inch that it was dark, but merely the outlines of the boats is all that I could see. Now, I say I couldn't see the exact time, the exact moment that they touched, or anything like that, but I could see the position where the crash, the hole was made and everything.

Q. The effect of your testimony before the Inspectors was that you couldn't see which barge struck the Henderson.

A. I probably misunderstood.

Q. You now say distinctly, in your testimony, that it was the middle barge which struck the Henderson. Which is correct?

A. I say that the port barge and the middle barge both struck the Henderson.

Q. But before the Inspectors, you couldn't tell which barge struck. Is that right?

A. I don't say I can tell which one struck first, no, sir.

Q. I read from your testimony before the Inspectors as follows: "Referring to the suppose anchorage of the barges, "Q. Could you see where they were anchored? A. Yes, sir. Q. You could see that, could you? A. Yes, sir. Q. And they were anchored where, in your opinion? Are you acquainted with the situation down there as to the lay of the country? A. No, sir. Q. You don't know anything about that. You know the Oregon and Washington shore? A. Yes, sir. Q. Where were those rock barges, in your opinion, anchored at that night, that morning? A. Two of them were anchored about 200 or 250 feet from shore. Q. Which shore? A. The Washington shore. Q. The Washington shore, the Puget Island shore. Do you know where the Puget Island shore is? A. I don't know. Q. The Washington shore, we will say. A. Yes, sir." Now, did you know anything about the Puget Island shore at that time? Did you so testify?

A. Well, I know it was supposed to be the Washington shore, the Washington side of the river.

Q. But you didn't know anything about the Puget Island shore, is that correct?

A. Yes, sir; at that time I didn't know, but since then I have been up and down the river a good many times,

Q. At that time, how long had you been working on the Samson?

A. Now, I couldn't say.

Q. Some two years, hadn't you? Now, what is the fact?

A. Probably a little over a year.

Q. And you didn't know anything about the Puget Island shore at that time?

A. Very little at the time of the collision, I didn't know what was called Puget Island.

Q. Speaking now on the order that you heard from the oil barge, this question was put to you, and I read from your testimony on page 1007: "But wait a minute. There was a collision there. The engineer couldn't attend to the water glass and the engine both. When you heard this order from the oil barge as to hard aport, what was the Samson doing then? Backing or going ahead? A. Her engines were still.

Q. Her engines were still? A. Yes, sir. Q. And how far was the oil barge from the Samson at that time, the forward end of the oil barge from the place you were at? A. The forward end of the oil barge was about 60 or 70 feet, between 60 and 70 feet. Q. About 60 or 70 feet? A. Yes, sir. Q. There was some noise around there, wasn't there? A. Not at that time. Q. Not at that time? A. No, sir. Q. There was before and after? A. Yes, sir. Q. But at that particular time there was no noise of any kind. A. There was right after the crash." Did you so testify before the Inspectors?

A. Yes, sir. In regards to that distance that I testified there that night, I couldn't gauge distance,

but I have thought it over since then, considered—up to the investigation I haven't given those matters a thought, because I didn't expect to be put in an examination of any kind; not being an officer of the boat, I didn't think I would have to appear at any trial, but since the matter, I have thought the matter over, and I believe now, considering the case and everything since then, that it would be about 200 feet off.

Q. Then it was not 60 or 70 feet off then, but was about 200 feet off? Is that correct?

A. Yes, sir.

Q. But you testified before the Inspectors that it was some 60 or 70 feet off?

A. Yes, sir.

Q. But at that time you hadn't sufficient time to reflect on the matter?

A. I hadn't given it a thought,—

Q. And give an answer.

A. (Continuing) Up until the time the Inspectors asked me that question.

Q. How much thought have you given it since the investigation by the Inspectors?

A. Have thought a good many times.

Q. Have thought a good many times?

A. Yes, sir.

Q. Who have you talked about this case to since the Inspector's hearing?

A. I have talked with several parties.

Q. With whom?

A. I don't believe any of them were interested in

this case, strangers, outside people, my friends, and telling experiences in life, etc. etc.

Q. And you talked with your friends then, as to these distances, have you?

A. Well, yes, I have.

Q. And did you tell your friends that you thought you had made a mistake before the Inspectors—

A. No, sir.

Q. (Continuing)—when you testified some 60 or 70 feet, when really it was 200 feet?

A. No, sir.

Q. When did you first conclude it was some 200 or 250 feet these vessels were off at that time, instead of 60 or 70 feet?

A. Probably in the last three or four months.

Q. In the last three or four months. And how did you come to that conclusion? As the result of talk with your friends?

A. No, sir.

Q. Or as the result of your reflection?

A. In my own mind.

Q. In your own mind?

A. Yes, sir.

Q. I read now a part of your testimony before the Inspectors: "Q. Now you say that the barge was swinging by you. You can't tell, can you, Mr. Pederson, when you are on a vessel and your vessel is in motion, whether the one vessel or the other is moving, can you? A. Yes, sir. Q. You could not stand on your vessel and be in motion and see another vessel

near by, and tell which vessel is in motion, can you?

A. Yes, sir. Q. So that your vessel, you say, had been backing for two or three minutes before the collision?

A. Yes, sir. Q. And right after the first whistle of the engineer of the Henderson—(Interruption by Mr. Minor, 'of the Samson') Mr. Snow: Of the Samson, I mean—no, of the Henderson. Q. Right after the first whistle of the Henderson, your engineer had been backing his engines for two or three minutes.

A. After the first whistle, yes, sir. Q. After the first whistle; and he began backing his engines almost immediately after the first whistle of the Henderson."

A. Read that again, please.

Q. (Reading) "Q. So your vessel, you say, had been backing for two or three minutes before the collision? A. Yes, sir. Q. And right after the first whistle of the engineer of the Henderson\*\*\*right after the first whistle of the Henderson, your engineer had been backing his engine for two or three minutes." That is before the first whistle. Is that correct?

A. That is what I testified to.

Mr. MINOR: Before the first whistle? Before the second, he means.

Q. Before the first whistle. Now, had you been backing two or three minutes before the first whistle of anybody?

A. We had been backing very few—

Mr. MINOR: He said after the first whistle.

A. Well, say half a minute after the first whistle

up to the time of the collision. As to regards to what time it was, I couldn't say.

Q. Let me understand you. Did you testify, as I have here read, from your testimony before the Inspectors?

A. Yes, sir, I did.

Q. Is that correct?

A. That testimony is—in what way do you mean is correct?

Q. Can you tell when standing on a vessel which is in motion, and going past another vessel, whether you are moving or the other vessel is moving?

A. If I could see the shore line, I could tell.

Q. Could you that night?

A. Yes, sir.

Q. What do you say then, that your testimony now is correct? That you can't tell which vessel is moving—yours or the other vessel, or whether this is correct, that you could tell?

Mr. MINOR: He doesn't say he couldn't tell. He said judging passing he couldn't tell.

Q. I will repeat the question before the Inspectors: "Q. Now, you say that the barge was swinging by you?"

A. I did not testify to swinging by.

Q. Just a moment: "Now, you say that the barge was swinging by you. You can't tell, can you, Mr. Pederson, when you are on a vessel, and your vessel is in motion, whether the one vessel or the other is moving, can you? A. Yes, sir." Did you so testify

before the Inspectors?

A. I do not think that I testified with a barge swinging by. I might have said passing by, but not swinging; probably a mistake there.

Q. What do you mean by swinging and passing?

A. A boat swinging would be swinging round and round, but wouldn't pass you; might be one stop just beside of you.

Q. Might be swinging around in a circle?

A. Yes, sir.

Q. In passing when the barge was swinging by you, is the question put to you. "You can't tell, can you, Mr. Pederson, when you are on a vessel, and your vessel is in motion, whether the one vessel or the other is moving, can you? A. Yes, sir." Did you so testify?

A. I probably did.

Q. (Reading) "Q. You could not stand on your vessel and be in motion, and see another vessel near by, and tell which vessel is in motion, can you? A. Yes, sir." Did you so testify?

A. Yes, sir.

"Q. So that your vessel, you say, had been backing for two or three minutes before the collision? A. Yes, sir." Did you so testify?

A. Yes, and I can explain that.

Q. Well, what explanation can you give to it? You say now she had been backing only about half a minute.

A. In going up alongside the house from the en-

gine room door, to the bow of the Samson, I noticed the shore line on the Oregon side, and I noticed that we were swinging.

Q. Swinging around in a circle?

A. We were swinging slowly.

Q. Slowly. Well, did you go up the port side, or the starboard side of your vessel?

A. Port side.

Q. And you noticed the shore from the port side of your vessel?

A. Yes, sir.

Q. And you were swinging away from that port side, were you?

A. Yes, sir.

Q. You noticed then the Oregon shore coming up?

A. I could see the outline of the Oregon shore.

Q. You could see the outline of the bluff?

A. I couldn't say whether—just I remember there tops of trees now. I couldn't say whether bluff or mountain.

Q. You could see the outlines of trees on the Oregon shore could you?

A. Yes, sir.

Q. I read now from your testimony: "Q. Right after the first whistle of the Henderson, your engineer had been backing his engine for two or three minutes? A. After the first whistle, yes, sir. Q. After the first whistle; and he began backing his engine almost immediately after the first whistle of the

Henderson? A. Yes, sir." Did you so testify before the Inspectors?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Then it is correct, is it, that immediately after the first whistle was blown, you had a backing order for your engines, did you?

A. Yes, sir.

Q. How long before the second whistle had you had that backing order?

A. Not having my watch, I couldn't state. I am not making time.

Q. Is it true you had been backing two or three minutes before the second whistle was blown?

MR. MINOR: He didn't say so.

Q. Well, I will have his answer. What is the truth about that, Mr. Pederson? Had you been backing your vessel?

A. I don't think so—

Q. Wait a minute. Had you been backing your vessel two or three minutes before the second whistle was blown?

A. Not two or three minutes, no, sir; not three minutes. Probably a minute or a little more than a minute.

Q. A minute or a little more than a minute. Well, didn't you testify before the Inspectors that you had been backing two or three minutes?

A. Yes, sir, I did.

Q. Which is correct then—what you testified to before the Inspectors, or what you testify to now?

A. I think now the testimony in that regard, my testimony now is more correct than at that time.

Q. When did you reach that conclusion?

A. Well, in the last—since the collision.

Q. How long since the collision?

A. I couldn't say, might have been two or three months after that.

Q. How do you reach that conclusion?

A. In thinking the matter over, in judging distance, etc. It couldn't be three minutes.

Q. In reaching that conclusion, do you remember your testimony before the Inspectors?

A. Yes, sir.

Q. You remember your testimony, you said two or three minutes, and you made up your mind two or three months ago, or some little time ago, that that statement was incorrect. Is that right?

A. Yes, sir.

Q. Now, you said you didn't understand the word "swinging" in connection with one of these questions. Is that correct?

A. I don't understand exactly what you mean. Express yourself more clearly.

Q. You said you didn't understand the word "swinging" was used. You meant passing?

A. In that question, yes, in that question alone.

Q. Well, let's take this question: "Q. Can you look onto the side and tell that the boat is swinging?"

A. Yes, sir. Q. In the dark? A. Yes, sir. Q. And you say that you were higher than the rocks?" Speaking of the stone barge. "A. Yes, sir. Q. Piled on the barge? A. Yes, sir. Q. Could you see any trees on the shore? A. Yes, sir. Q. Could you see the outlines of them; that is all; you could distinguish them. Q. You couldn't tell where you were? A. No, sir. Q. And could you see the lights on the oil barge, the masthead lights? A. I never paid no attention to that. Q. You don't know whether she had any masthead lights or not? A. No, sir. Q. Do you know whether the Henderson had any masthead lights? A. I could not swear to it." Did you so testify before the Inspectors?

A. Yes, sir.

Q. Then, if you could—is that statement true you testified to before the Inspectors that I just read to you?

A. Yes, sir.

Q. Then if you could see the outlines of the trees on the Oregon shore, you must have been pretty close to that shore, mustn't you?

A. Not necessarily.

Q. Well, you say it was very dark that night. Is that correct?

A. Well, I have seen a whole lot darker nights. It was not moonlight. It was very clear. The sky was clear. It was not the darkest kind of a night.

#### Redirect Examination.

Q. When you were called before the Inspectors,

you gave times and distances. Now, at that time, did you mean to give an accurate statement of time, or only your approximation and what you thought it was at the time? .

A. Very rough approximation of it.

Q. How about the distance? Did you undertake at that time to give accurate distances, or only your approximation of it?

A. Just merely an approximation.

Q. At this time you were also giving time and distances?

A. Merely approximation.

Q. Merely approximation. Can you state the time with any accuracy?

A. No, sir.

Q. Can you state distances accurately?

A. No, sir.

Witness excused.

Mr. C. E. S. WOOD: I forgot whether it has been done, and I desire to offer the two wooden models of the oil barge and the Henderson, if they have not already been offered.

Oil barge marked "Libellant's Exhibit 23."

Henderson marked "Libellant's Exhibit 24."

XENEPHON MERJANO, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Mr. Merjano, where were you in July, 1911, a year

ago last July?

A. Well, that time I was on the scow.

Q. On the—

A. On the nine—No. nine barge.

Q. On No. nine barge?

A. Yes, sir.

Q. Belonging to whom and working for whom?

A. Who?

Q. Who were you working for?

A. Columbia Contract Company.

Q. That scow was owned by whom?

A. Yes, sir.

Q. By the Columbia Contract Company?

A. Yes, sir.

Q. Do you remember the night when there was a collision between the Samson and her barges, including Barge No. 9, and the Henderson and her barge, down near Bugby Hole?

A. Yes, sir.

Q. On the river. Were you on Barge No. 9 that night?

A. Yes, sir.

Q. Did you put out the light on barge No. 9 that night?

A. Yes, sir.

Q. Was there a light on Barge No. 9 that night?

A. Sir?

Q. Was there a light on Barge No. 9 that night?

A. Yes, sir, on the bow—on the port bow.

Q. On the port side?

A. Yes, sir.

Q. How long was it carried there that night?

A. How long?

Q. Yes.

A. They had that light there?

Q. Yes.

A. Well, they had it about five or six hours.

Q. Was it there the time that collision took place?

A. Yes, sir. When I waked up—I was asleep, and when I saw that noise coming on, I got up. When I got up—when I got up the scow was too far away from the other scows, and was from the Samson too, and men from the Samson, they told me to jump myself overboard, and get the Samson. And I says I won't jump myself overboard before I see the scow go down. I don't like that. I won't jump myself overboard, for I go 16 years at sea; so I took a light from the cabin, and went forward. When I went forward I see the bow was smashed up, and I got scared up all right. I says, "My God, I go down with the scow." Now, I ran back there—I put that light on the bits there, that what they call the post they make fast the line on. That is the name of it. And when I put that light there, I took the other light I had for a side light—when I put that light there on the port from aft, I put the light on the bits; no anchor, for I was drifting down. You see when any steamer is passing up and down, maybe go and strike me again, have a collision, maybe. I put that light on the bits there, and take the other light, one of the side lights:

what I had—well, I had for side light on the port barge. I took that light, and went down below to see if any water coming in, because all smashed up there—that bow. And I went down below and I saw the hole was about 16 inches off the water. When I seen no water coming in, I examined the scow right around, and I was drifting down all the time. Well, I went right around, and saw the scow, she was all right, and then I came up. I came up where I make my anchor there on the chain ready. But I was drifting yet. She was drifting down, and then—well, I dumped the anchor overboard, but I was too far from it—

Q. This light you picked up when you went out to the bow of your boat, was that burning when you took it up?

A. Yes, sir; I took some lights after it was burning, and I took the same lights and went down below.

Q. I believe you said you anchored that barge?

A. Yes, sir, I anchored it.

Q. Were you on that barge the rest of the night?

A. Yes, sir.

Q. You stayed there on that barge the night?

A. Yes, sir.

Q. And were you on that barge when that barge was picked up the next morning?

A. Yes, sir.

Q. How far were you from the shore when the barge was picked up the next morning?

A. I can't tell you exactly, but I was a good bit all

right—about 180 feet off land.

Q. Which shore were you on?

A. I couldn't tell you that.

Q. Was it on the port side going down, or on the starboard side?

A. On the starboard side.

Q. Starboard side going down. And you were about 180 feet from that, you think?

A. Yes, sir; as near as I can remember. I can't tell you exactly, but I say that.

Q. Now, Mr. Merjano, you said that barge was—the bow was broken some?

A. Yes, sir; the starboard bow.

Q. Now, before that night, was that barge broken that way at the bow?

A. No, sir, she was all right.

Q. Did you put that light out there that night?

A. Yes, sir.

Q. You did put it out there, what time? As soon as it became dark?

A. As soon as the sun sets. You see, always I must put that out.

Q. As soon as the sun sets.

A. The Samson put out her lights, and I must put out my lights.

Q. What else did you notice about that barge, in regard to having any paint on it the next day?

A. Nothing else, sir.

Q. Did you have any paint on it the next morning when you looked at it?

A. Paint?

Q. Yes.

A. Yes, right along from the bow aft, paint, black paint, and tow post—what they call a big post right aft 15 or 20 feet forward from aft, a big post there, and outside that post a four by twelve plank outside that post, and knocked that out too, and was all paint there; and was all paint right forward there on the bow.

Q. What kind of paint was it?

A. Black paint.

Q. Was it there before that night?

A. No, it wasn't there before that.

Q. It wasn't there before that night at all?

A. No, sir.

Q. Which side of the barge was the paint on—the port—

A. On the port side.

Q. On the port side.

#### Cross Examination.

Questions by Mr. SNOW:

Mr. Merjano, were you asleep?

A. Yes, sir.

Q. In your cabin at the time of the collision?

A. Yes, sir.

Q. You don't know anything about what happened, or how the collision occurred?

A. No, I don't know nothing, because when I went out, the scows were too far, the Samson and all.

Q. When you woke up, and came out on the deck of the barge—is your berth on the deck of the barge, or down in the hold?

A. My door?

Q. Your berth, where you sleep?

A. On the deck. The cabin is on the deck, a little cabin on the deck.

Q. After you woke up, did you dress yourself?

A. No, sir, I didn't put nothing on; just what I had. I got up with what I had; I didn't put nothing on.

Q. When you came out on deck, you were drifting up, were you?

A. Yes, sir, drifting down.

Q. Did you see the Samson?

A. Yes, I saw the Samson. I saw the Samson, and men on the Samson told me to jump overboard, jump myself overboard.

Q. The master of the Samson told you to jump overboard?

A. No, I don't know who say—the crew, the men—I heard that all right.

Q. You were near enough so you heard?

A. I heard that all right, but she was too far.

Q. You were near enough to hear some one from the Samson tell you to jump overboard?

A. Yes, I heard that. I didn't take notice. I was looking right around, looking crazy, see what I was going to do. They told me the scow was going to sink—she was smashed like that.

Q. You found her not smashed quite so much as you thought she was?

A. I done that. I thought was going to sink right away.

Q. You took a lantern? Did you light the light?

A. Yes, sir; it was dark when I was asleep, and I lighted the light.

Q. You lighted the light inside your cabin?

A. Yes, sir.

Q. And got on the deck of the barge?

A. Yes, sir.

Q. And you went forward on the barge?

A. Forward.

Q. And you said you put that lantern—

A. On the post.

Q. On the bits?

A. On the bits.

Q. Because steamers were going up and down, and you didn't want to be struck again?

A. Yes, sir.

Q. And then you went down to the hold of the barge?

A. No, I took the other light from the side.

Q. You took the light that was on the barge before?

A. The side light.

Q. And you took that side light, and went down into the barge?

A. Yes, sir.

Q. Didn't you find a leak in that barge?

A. No, sir.

Q. Sure of that?

A. Yes, sir; it was too high.

Q. What?

A. The damage, you see, the hole was too high; about that much (indicating) about 16 inches. Something like that.

Q. Didn't you find a leak on the port side of that barge?

A. No, no; very little. You see, just seams, was leaking a little, very little.

Q. Didn't you find a leak in the after part of that?

A. No, it was all right aft.

Q. Did you go all around that barge?

A. Yes; I went right around; right around the barge underneath.

Q. And examined it carefully?

A. Yes, sir.

Q. Sure you didn't find any leaks in that barge?

A. No, sir.

Q. All this while you were drifting down the channel, and you had this light out to prevent vessels from running into you?

A. Yes, sir.

Q. When you got up on deck, did you get any orders to anchor the barge?

A. No. Where was I going to get any orders? The Samson was about six or seven hundred feet-- eight hundred feet.

Q. Where was the Samson from you--up the

river.

A. She was up—I don't know. She went to take the men off the Henderson.

Q. She was up the river from you, was she?

A. Yes—no, I couldn't tell you which way she was, but I guess she was up the river, for I was drifting down stream all right. I couldn't tell you. It was dark.

Q. And you were drifting over to the Washington side—or near the Puget Island side of the channel, were you?

A. No, I don't know about—nothing about what land it was, but I know,—

Q. Well, you drifted over then—

A. (Continuing) The Washington side.

Q. Down the channel of the river, and to the Washington side, did you?

A. Well, I guess yes; Washington shore.

Q. Then you threw out the anchors?

A. Yes.

Q. How many anchors did the boat have?

A. At that time we had one, but now it has two.

Q. Then you only put out one anchor, what you had on the barge?

A. Yes, I put that anchor out.

Q. What is the weight of that anchor, do you know?

A. Well, I couldn't tell you—140 pounds, something. 140.

Q. 140 pounds?

A. No, more than that. No, I made a mistake about that; I couldn't tell you exactly; 800, something like that. I couldn't tell you.

Q. You don't know what the weight of the anchor was?

A. No, I don't know.

Q. Well, I suppose not, Mr. Merjano, but you let go that anchor, and then your boat came to a stop?

A. Yes, I dumped that anchor, and then stopped.

Q. And at that time you were about, as you understand it, 180 or 200 feet from the shore line; is that right?

A. I cannot tell you exactly; I guess I was that far.

Q. Might you have been only 100 feet from the shore line?

A. No, more than that; no, 180 feet or something.

Q. Now, weren't you 150 feet from that shore line?

A. Well, I don't know; I can't tell you exactly; I was too far all right from the shore.

Q. As a matter of fact, Mr. Merjano, might you not have been 300 feet from that shore line?

A. I don't know. Might be less; might be more.

Q. The fact is, you don't know how far from shore you were?

A. No, I couldn't tell you, but I was close to the land all right.

Q. Now you were about, about three quarters of an hour, wasn't it, from the time you got out on deck,

and found this collision had taken place, until the time you anchored?

A. No, I don't think it.

Q. What do you think it was?

A. Twenty minutes—twenty five minutes; something, I don't know.

Q. Twenty five minutes. Don't you remember testifying before the Inspectors?

A. I took time, you see, because I thought the Samson was going to pick me up quick again right away. That is the reason I didn't like to dump the anchor overboard.

Q. Because what? Because you thought the Samson was going to pick you up right away?

A. Yes, sir.

Q. What made you think that?

A. I thought she was going to pick the scows right away quick, but she went for to pick the men up from the Henderson.

Q. You think it was only about 20 minutes then—25 minutes?

A. Well, might be more, yet; 20 or 25, something.

Q. Let me refresh your recollection. You testified before the Inspectors, didn't you, down here at the Custom House Building?

A. Yes, sir.

Q. You remember when Captain Jordan was tried for this collision, don't you?

A. Yes, sir.

Q. Now, do you remember whether or not a ques-

tion was put to you there about the probable time that you were drifting about there, before you finally came to anchor? Do you understand that?

A. No, I don't remember that now.

Q. Let me ask you if this question was put to you?

Mr. MINOR: Yes, I know he testified three-quarters of an hour.

Q. (Reading) "Q. You think you anchored three quarters of an hour after the collision?" That is the question put to you.

A. That is what I said?

Q. No. The Inspector put this question.

A. Well, might be; I don't remember.

Q. The Inspector put this question to you: "Q. You think you anchored about three quarters of an hour after the collision? A. Well, something like that, because I left the scow go drift, after I seen she was all right, because I thought the Samson might be coming back to take me away from there with the other barges together." Now, do you remember giving that answer to the Inspectors down there?

A. Yes, sir; I remember that all right.

Q. And what do you say now, as near as you can fix it? I don't expect you to be accurate.

A. No, I can only tell you what I know; what I already say; that is all.

Q. I believe that is correct. Now, about what time do you think it took from the time you got up on deck, and found a collision had taken place, from that time while you were drifting about the channel there,

how long was it before you anchored finally?

A. Well, that much; I don't know; maybe forty minutes, I don't know; I couldn't tell you. I didn't have no time; nothing; twenty minutes—forty minutes—I couldn't tell you.

Q. Do you remember this question put to you by the Inspectors:

Mr. MINOR: I concede he testified he thought it was three quarters.

Q. (Reading) "How long after the collision was it you anchored your barge?" And you answered, "Oh, it was about three quarters of an hour. Q. About three quarters of an hour. And what is the weight of your anchor? A. Well, 300 pounds, a small anchor." Now, did you so answer to the Inspectors?

A. Well, I don't remember now if I said that. It may be I said it; I don't know. I am not sure. I don't remember. 300 pounds—was that the answer?

Q. Do you remember, Mr. Merjano, whether your boat drifted a little after the anchor was dropped, before the anchor caught?

A. No, she stopped right away. Slacked on about 18 or 19 fathoms chain; something like that.

Q. Do you remember after you were anchored, the fishermen coming up and laying out their nets by you?

A. No. I saw a couple of fisherman. I saw one fellow; he passed me, and he said: "Oh, this is another rock barge here," and he went away. That is all I seen.

Q. Was he fishing, drifting with his nets?

A. No, he didn't have any net out, or anything; just passed by. And I heard that much he said, "Oh, another rock barge here."

Q. Do you remember this question put to you by the Inspectors down at this hearing, a question put by—do you know a Mr. Shepherd who was down there? You don't know who put these questions to you, but I will state Mr. Shepherd.

A. No, I don't.

Q. (Reading) "Q. You didn't see, before you dropped the anchor? A. No. Q. Could you see the shore at all? A. No." Could you see the shore when you dropped your anchor there?

A. Yes, sir; could see the shore all right.

Q. Well, what did you mean by answering the Inspectors at this hearing that you couldn't see the shore when you put out your anchor?

A. I couldn't see?

Q. Yes, that you couldn't see when you dropped the anchor.

A. Well, I don't remember now.

Q. Here is the question put to you: "You didn't see before you dropped the anchor? A. No. Q. Could you see the shore at all? A. No." You don't remember whether you so testified down there?

A. No, sir.

Q. Do you remember so testifying before the Inspectors?

A. Not that I remember of. I saw the shore after,

when she dropped back, you see, because she was going with bow down, then when I dropped the anchor, when the anchor tied, when the chain went tight, she swung around. That is the time I saw the land.

Q. You were going down channel with your nose down channel?

A. Yes, were headed down.

Q. You didn't see the shore then?

A. No. When she swung around.

Q. When you dropped the anchor, and she swung with her stern down channel, then you saw the shore?

A. Yes.

Q. Now, was this question put to you before the Inspectors: "Could you see the shore at all?" A. No.

Q. Anywhere? A. Yes, I could see that night, but I couldn't make it out how far I was from the land. Too many fishing boats about there; I didn't know what they was. Q. Well, did you pass fishing boats about the time you let go from the Samson? A. No. It was away—after I dropped the anchor, she come there; I don't know, she was looking like a fish boat, but she comes alongside of me. She was at the rock barge. That is where we came back again. Q. So there were fishermen with their nets out, were there, that night, you think? A. Yes. They was out all right." Now, do you remember that?

A. No, I don't remember, because I said I saw too many fishing boats.

Q. Did you see fishing boats that night?

A. I don't remember I said that.

Q. Did you see fishing boats that night?

A. Yes, I saw fishing boats around there, and he said, "Here is another rock barge," and he went down.

Questions by Mr. ERSKINE WOOD:

Are you working for the Columbia Contract Company now?

A. No, I don't work nowhere now.

Q. When did you lay off?

A. About one month.

Q. You were working with them until they quit work for the winter?

A. Yes, some times I worked, and some times—last summer I quit about six or seven months. I was on the Union Oil Company boats.

Q. When did you leave the Columbia Contract Company?

A. Last September.

Q. Now, you examined the barge when you went down underneath with a lantern. Was she damaged on the port bow?

Q. No, damaged on the starboard bow.

Q. Was there any damage on the port bow?

A. Yes, were four by twelve for tow posts, they knocked them out; and damaged on the port side, what you call big band iron, about 20 feet long on the rail there; knocked that all off a little bit.

Q. Were the port ribs cracked, do you know, at the top?

A. No, nothing cracked up there.

Witness excused.

Mr. C. E. S. WOOD: Mr. Minor, do you expect to finish your defense this evening?

Mr. MINOR: I hope so. I have two or three other witnesses.

Mr. WOOD: The reason I ask this is, the Columbia River Pilots' Association has been short of pilots, and is demanding Captain Smith to take a vessel down the river, and as those things are expensive and important, I would like to put him on for two or three questions in rebuttal if you think you will get time to finish your case.

Mr. MINOR: If it takes as long with these other two witnesses as you did with Captain Crowe, it will take us very close.

Mr. WOOD: All I want is to rebut Captain Jordan's statement about Prairie Channel, and the current momentum; just that much. I would like the Court to hear it, if possible. If not, will let him go, and take him up by deposition, or by reference. But I will have the rest here before the Court.

Mr. MINOR: I don't think it is safe. I have two or three other witnesses I want the Court to hear.

COURT: I won't require you to give way.

Mr. MINOR: If we get through, we shall have no objections.

Mr. WOOD: We shall have to let him go pretty soon. I will ask, then, if no objection, in the event we have to let him go, if we can take his deposition.

Mr. MINOR: I will stipulate to take the deposition.

Mr. SNOW: Or take before an examiner.

Mr. MINOR: Take before an examiner.

CAPTAIN JOSEPH O. CHURCH, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Captain Church, what is your occupation?

A. Steamboat captain.

Q. How long have you been engaged in that business?

A. Since 1890.

Q. Since 1890?

A. Yes, sir.

Q. You hold a master and pilot's license, do you?

A. Yes, sir.

Q. First-class?

A. First-class, yes, sir.

Q. You were captain from—you were the master of the Samson on the night of July 22, 1911, were you?

A. Yes, sir.

Q. Captain, were you on duty at the time you picked up the rock barges that night?

A. Yes, sir; at the time we changed tows.

Q. Yes, I mean at the time. Explain to the Court what you mean by changing tows.

A. Well, at the time we changed with the steamer Hercules. We take the light barges up, and turn the

light ones over to the Hercules, and we take the loaded ones and go back down the river.

Q. Now, did you notice the lights on these barges at the time you picked them up that night, took them from the Hercules? ?

A. Yes, sir.

Q. What lights were on the barges that night when you picked them up from the Hercules?

A. White light on the outboard side of the port barge on the port side, and a white light on the outboard side of the starboard barge.

Q. Well, after you picked up the barges, did you remain on duty some time?

A. Yes, sir; some little time. I don't just remember how long.

Q. Could you see whether the lights were still burning on those barges when you were on duty?

A. Yes, sir, I could see the reflection of them on the rocks. I couldn't see the lights themselves, but I could see the reflection.

Q. Now at the time the accident happened, Captain, that night, I understand that you were asleep?

A. Yes, sir.

Q. I wish you would tell the Court what you first heard.

A. What I first heard?

Q. Yes.

A. I believe the first thing I heard was Captain Jordan saying to somebody to get those men out of the hold.

Q. Yes.

A. And I jumped up then, and I heard the Henderson also whistle at the time.

Q. And how was the Henderson whistling?

A. I heard, I think, either one or two whistles, short whistles of the Henderson, just as I woke up.

Q. Were they with the steam whistle?

A. Steam whistle, yes, sir.

Q. Did you hear any whistles on the Samson that you remember?

A. No, sir; no whistles at all.

Q. Then what did you do?

A. Well, I came out on deck, and looked to see what had happened, and went back, and dressed myself and came out forward the pilot house again, and ordered the small boat lowered.

Q. Yes, and did you take part in seeing that lowered?

A. Oh yes, yes, I was there and seen it was lowered.

Q. Then what did you do, Captain?

A. Well, I ordered them to let go the lines from the barges, and anchor the barges.

Q. Was that order obeyed?

A. And as soon as we backed away from the barges, then we went back to the Henderson with the tug.

Q. When you first came out on deck, was the Samson working or not?

A. Her engines?

Q. Yes.

A. No, sir, I don't think they were. I didn't hear any bells at all.

Q. Could you tell whether she was working or not, without hearing bells?

A. Oh, yes, I think I could, yes; by the vibration.

Q. Did you go over to the Henderson on the Samson?

A. Yes, sir.

Q. What did you do when you went over there?

A. We picked up a line from the Henderson on the cavel, and tried to shove her towards shore some. The line let go, and we got out another one, laid against her bow, and kept working ahead, and shoving her towards shore, and holding her against the current there.

Q. When you got there, had the crew and passengers been taken off the Henderson?

A. Yes, sir, they were aboard the Samson at the time.

Q. Captain, how long have you been engaged in running steamboats on the river, along through Bugby Hole, and from there down to Astoria?

A. Well, off and on, all the time since I have been steamboating. That is, not as a steady thing, but have been through there at different times.

Q. Are you acquainted with the currents that set out from Bugby Hole down the river?

A. Oh, yes, pretty well acquainted with them.

Q. I wish you would look at that, look at this

chart, Claimant's Exhibit A; are you acquainted with this chart?

A. Yes, sir.

Q. Now, I wish you would explain how the currents of this river set as you come down; commencing up here, say, as you turn the point of Puget Island?

A. The current will naturally draw into the bend at all times. Will draw in towards the bend, naturally will.

Q. Towards the Oregon side?

A. Towards the Oregon side.

Q. And how far down does that current draw over towards the bend?

A. Oh, it will draw over this way, it will go down quite a piece; of course, the current will commence to divide here; as soon as it comes down here, say, it commences to start, it will divide; it will still keep dividing for this point here, because there is quite a flow here through this Prairie Channel.

Q. How is the water in Prairie Channel, as to the depth of it?

A. Oh, I suppose twelve, sixteen, seventeen feet.

Q. Through Prairie Channel?

A. Through Prairie Channel.

Q. Is it a navigable channel?

A. For light draft steamers, yes.

Q. What about steamers like the Kern or Samson?

A. Well, there wouldn't be water enough for them, no.

Q. Would not be water enough for them?

A. No.

Q. And the current, then, as I understand you, sets down this way all the way from where the bend makes?

A. Keeps running into the bend at all times, working this way.

Q. How is that current as to being strong or otherwise?

A. The strongest current is going to follow the bend side; always is.

Q. Captain, I now want to call your attention to Libellant's Exhibit 1, and particularly to the testimony of Captain Sullivan. Captain Sullivan testified that when he first sighted the Samson that night, he was at a point marked with a cross, over which is written the words "oil barge"; that at that time he saw the Samson at a point marked "O", near which is the letter "B", and that at that time, when he saw the Samson, he put his helm to port, and ran down in a course indicated by—first, he said with this lead pencil line, afterwards by the blue pencil line, to a point about where this cross mark is, opposite to which, written here in the margin is "first signal." See that point where the point is there?

A. Yes, sir.

Q. Now, when he was running down there, what lights would the Henderson and her tow show to the Samson, coming from down here, point O?

Mr. SNOW: Where was the Samson at the first

signal?

Q. I say, running down thiere, what light would he show to the Samson running up this course, say to the point which Captain Sullivan marks here as the Samson, when the first whistle was blown?

A. He would show the red light, port light.

Q. Would he, in your judgment, show his green light at all?

A. No, sir, he couldn't if the lights were arranged right on the vessel.

Q. Now, after this point marked "first signal," he says he ran on down to a point here which is marked "second signal." See where I mean?

A. Yes, sir.

Q. And at that time he says the Samson had gotten up to a point which he first put as this point here, the double cross here, opposite of which is written the words "Samson, second signal." Now, when he was running that distance, and the Samson running between the place where the first signal was sounded and the second signal was sounded, what lights would he show to the Samson?

A. He would still show the one light.

Q. Only the port light. And if this point which I called your attention to before, instead of being there, was at the point which I now show you here, marked on the margin here "corrected location of Samson," what light would he show from the Samson?

A. Turning from here?

Q. No, he is still running this course, from first to

second whistle, and he says the Samson ran from this point here up to this point here. What light would he show to the Samson?

A. The red light.

Q. Any green light at all?

A. Of course if he turned here, and then run up here, then he would show both lights. But going in this direction—

Q. What I mean, he said, this is where he was at the time—this is where he says he was at the time the first whistle was blown, and this is where he was at the time the second whistle was blown.

A. Yes, I understand.

Q. Now, he changed his position where he said he was when the second whistle was blown, to the point which I now show you, there. Now, if he ran on that course, and the Samson came on the course which I have already shown you, up to the point where he says he was, what light would he show then?

A. Would show the red light.

Q. Only the red light?

A. And his masthead light.

Q. But wouldn't show the green light?

A. Wouldn't show his green light.

Q. Now, suppose the Samson, instead of coming up to the point which I last called your attention to, would come to the point which I now call your attention to, marked here "second correction of Samson". Now, what light would he show to the Samson in that case? He is still running on this line, and

the Samson coming on this line, and he ran from this point up to there, what light would he show to the Samson, if he was coming from here down to that point there, and the Samson coming to this point?

A. Well, when he got there, he might have seen the two lights but I don't think so. I think could only see the one red light.

Q. Now, Captain, if the Samson went from any one of those three locations to the point of collision which I now show you here, marked "X," and opposite "collision," and the Henderson went from either one of these two points, after the second whistle, to the point of collision, what lights would the Henderson show to the Samson?

A. How is that? If it ran from here—

Q. If it ran from either one of those two locations to the point of collision, which you see is down here, and the Henderson ran from either one of these locations to that point, what light would she show?

A. The Henderson show? Would show the red light.

Q. Wouldn't show the green light at all. Now, Captain, on the other hand, suppose the Henderson ran down the course which I have shown you, as Captain Sullivan says she did, and the Samson ran up from the point where he says he first saw her, to any one of these points that he has indicated here, what light would she show to the Henderson?

A. She shouldn't see anything but the green light.

Q. The green light on the Samson?

A. Of course, taking into consideration, as he was holding his vessel up here to the current, which he would have to do, he would be going down there this way, but would be going sideways, you might say; could probably see both colored lights.

Q. If he was going sideways?

A. Yes, as he would be.

Mr. SNOW: He would be going that way?

A. I think so, yes. I am most sure of that.

Q. Captain, you said he would have to hold his vessel up, and go sideways going around there. Explain that to the court.

A. As he goes around this point here, and this current is setting to this shore at all times, you would have to naturally hold up to this shore a little all the time. You must keep holding up to this shore. If you don't you will set clear over to this before you get down here. So we come here with the Samson, and there was an object here, we steady up from here to here, to round that object, before we get to the object; that would be the shore here.

Q. That is on account of what?

A. The current setting into the bend.

Mr. SNOW: Into the Oregon shore?

A. Into the Oregon shore.

Q. If, on the other hand, Captain, the Henderson and her tow came down from the point where Captain Sullivan testified she was, at the time she first saw the Samson, and the collision took place at the point "Q", which is the point where Captain Jordan says the col-

lision took place, and the Samson came up from the point where Captain Sullivan says she was when he first saw her, what lights would the two ships show to each other during that course?

A. They would show, they would almost show all their lights then. If it is pretty much of a straight line, then the oil barge would still be likely to show her red light. I think it would be still showing her red light.

Q. Now, Captain Jordan says, when he turned the point of this island, he was pretty close in to the Puget Island shore?

A. Yes, sir.

Q. And he says the collision took place about the point "Q". In that event, what lights would there be showing, providing the Henderson is about the point where Captain Sullivan says she was at the time he saw the Samson?

A. Well, the Samson would be showing both lights to the oil barge, and I think the oil barge would only be showing the red light. I don't hardly believe it would be showing the two, but still she might. I couldn't say positive to that, because I don't think that compass bearing is enough to change it.

Q. Are you acquainted with the steamer Henderson?

A. Yes, sir.

Q. Did you ever run on her?

A. Yes, sir.

Q. In what capacity?

A. Master of her.

Q. How long?

A. About two years; not exactly.

Q. In what business were you engaged when you were operating her?

A. Towing. Towing logs, vessels.

Q. Towing logs and vessels?

A. Yes, sir.

Q. Did you ever tow an oil barge with her?

A. I towed an oil barge, yes. But not the Standard Oil barge. We towed one of the Union Oil Company's barges with her during the time I was on her.

Q. What kind of a barge is that?

A. Pretty much the same thing, only she is rigged like a barkentine. A little larger, I think, if anything.

Q. You think a little larger, if anything?

A. I think she is. I don't know exactly.

Q. You think a little larger if anything. Same kind of vessel, though, is she?

A. Yes, practically the same kind.

Q. Do you know the name of that oil barge?

A. The Fullerton.

Q. The Fullerton. Now, from what point did you tow her, and to what point?

A. From Astoria to the Union Oil Company's dock at Portsmouth.

Q. Did you land her there?

A. Yes, sir.

Q. Now, Captain, when you brought her up the river, do you remember whether there was current in

the river or not, the Willamette River?

A. Yes. There was some current. The Willamette was up some.

Q. How did the Willamette at that time compare with the current of the tide on July 22, 1911?

A. I don't think it was as strong. I don't think it was as strong a current.

Q. You don't think quite as strong?

A. Pretty strong current, but I don't think hardly as strong.

Q. How did you land her, Captain?

A. Well, we had a river pilot in charge. I was in charge of the steamer, and took orders from him, in regard to stopping or backing or anything.

Q. Who was the river pilot? Do you remember?

A. Bailey—A. L. Bailey.

Q. Have you ever towed other ocean going vessels?

A. Yes, sir.

Q. What others?

A. Oh, I couldn't name them.

Q. About what size were they?

A. Towed schooners; towed sailing ships, too.

Q. How did they compare in size to Oil Barge 93?

A. Well, they were about—the lumber schooner is smaller; the sailing ship is larger.

Q. Now, from your experience, Captain, in towing vessels of that character with the Henderson, how fast, or at what rate of speed would the Henderson tow a vessel of that kind?

A. Well, that depends a good deal on the model of the vessel, on the loading of the vessel, etc., considerable.

Q. Take the oil barge, for example.

A. Take that oil barge, and she towed that about four miles an hour, I should judge, a barge coming up.

Q. And the other vessels, about how fast would you think?

A. Well, towed up one there that we didn't—I don't think we towed it four miles an hour, when we got to that flood tide. A freak vessel one time, pretty dirty, and didn't tow so easy; pretty hard to say about that. We towed that lumber schooner; got a good eight or ten miles an hour some times. Good model, clean bottom, too.

Q. Now, it is in evidence in this case that the Henderson left Astoria with her tow, between 8:45 and 9 o'clock at night, and this accident happened between the foot of Puget Island and the bluff on the Oregon side, somewhere in there, about 1:40 o'clock the same night. That is about five hours, as I figure it.

A. Yes, sir.

Q. What speed would the Henderson be going as she came up, an average speed, all the way? You know the distance, do you?

A. It is about—I don't know just what the distance is. It is about 26 miles, I think, from Astoria to Bugby. I don't know just what the distance is. Towing about five miles an hour.

Q. It is claimed, Captain Church, that during part of that time she was on a flood tide, and I guess we agree that during part of that time she was on an ebb tide. As I understand the flood tide, until she came to a place about twelve miles up, and the balance of the time, I think the evidence shows, on an ebb tide. Now, if she made about five miles an hour during the entire distance, about what speed do you think she would make on the flood tide, and what on the ebb tide?

A. Pretty hard to say. That's a pretty hard question to answer, you know, because you take a flood tide, and the river up more, doesn't flood so awful strong. I should think against ebb tide, she ought to be making about three and a half miles.

Q. From your experience with her, would you say that she could tow a vessel of that character at a rate of three and a half miles against the tide running the night of July 22, 1911?

A. Well, I think she could, yes, sir.

Q. Captain Church, did you ever have any experience in having your tows cut away from your towing vessel?

A. No, sir.

Q. Did you ever have any experience in running—in breaking the lines between your tow and your towing vessel?

A. Oh, yes, yes, we broke lines several times.

Q. Now, it is in evidence in this case that the Henderson was lashed to the oil barge by a head line seven inch Manila, to which was a pendant of seven-eighths

inch metal, that she had two breast lines, three-quarters inch metal, two stern lines, just the same as the head lines, and a tow line one inch metal. If these rock barges should run into the Henderson when coming down the river at from six—Mr. Snow says from six to nine miles an hour—the Henderson coming up between three and four miles an hour, and the Henderson was torn loose absolutely away from the oil barge, all the lines broken, what effect would the breaking of those lines have, in your judgment, upon the momentum of the oil barge?

A. Well, they wouldn't have a great deal, because those lines are all hove up so tight. Take the wire itself, there is not much give to it when it is struck suddenly. I think the sudden strike of those barges coming together that way, that wouldn't check the headway a great deal.

Q. Now, you say would not check a great deal, but what do you mean by that?

A. Oh, I don't know. A quarter of a mile an hour, maybe, maybe more than that; maybe half a mile. It would be pretty hard to say.

Q. Now, it is also in evidence, Captain, that before the collision, the Henderson had been backing full speed astern, not more than one minute. What effect would her backing, for not more than one minute, have upon the momentum of her oil barge, in your judgment?

A. Well, backing full speed for one minute, backing on that oil barge, I should judge, it ought to re-

duce the speed of that oil barge just about one quarter.

Q. One quarter?

A. Yes.

Q. You make—that is your opinion about that, is it?

A. Yes, sir.

Q. From the experience you have had with the Henderson, and towing?

A. Yes, sir.

Q. Now, how far, in your judgment, would the oil barge, if cut loose from the Henderson, in the manner in which I have described, taking into consideration the breaking of the lines, and the fact that the Henderson had been backing full speed astern, for not more than one minute,—how far would she drift after she was cut loose from the Henderson?

A. Well, that is hard to say. If she went against the current, and the current running there pretty strong, I suppose she ought to go about a quarter of a mile. I should imagine she would. But if she turned, and turned across the current, or anything that way, would go a great deal further, because she wouldn't have the current against her.

Q. Now, if the collision took place, Captain Church, at this point marked on Libellant's Exhibit 1 and indicated by the letter "Q", which is about the point that Captain Jordan says the collision took place, and both the Henderson and the oil barge at that time were hard aport, which way would the oil

barge drift when so cut loose?

A. She would go right towards, make a circle towards the Oregon shore.

Q. And in your judgment where would she come to anchor?

A. Well, I should think that she ought to come up the stream here, and to shore—oh, quite a piece. She ought to be up the stream—well, she wouldn't come up a quarter of a mile, because she would be going across the stream at the same time, and it is near a quarter, about a quarter there, across, I guess. So she would make a circle here, and that current would come way over in here some place.

Q. Mark that.

A. I should imagine it would come up this way, make a circle like this. That is, if they left that wheel hard apart all the time, would come like that.

Q. Mark it.

A. (Marking) That is, with nothing stopping her at all; running all the time with wheel hard over.

Mr. MINOR: Witness marks a course to a point marked on Libellant's Exhibit 1 as "Z".

Mr. SNOW: Point which the oil barge is after the collision, "Z".

Q. Now, Captain, if the anchors were let go soon after the collision, how far, in your judgment, would that change the distance and course of the oil barge in drifting?

A. Well, that is another question altogether. She would be,—if they let go the anchors, if it was good

holding ground that would fetch up immediately; but it would have to be sand and gravel;—if they didn't hold good, she would keep dragging those anchors, and all the time that she would be dragging those anchors, that would have a tendency to drag her back the other way, head her upstream again, and stopping her headway.

Q. Stopping her headway?

A. Yes; and she would keep going, with anchors dragging, until they fetched up.

Q. If the bottom was sand and gravel, such as you describe, what is the fact as to the anchors dragging or not?

A. They would drag for some time before they got hold, because an anchor won't hold—

Mr. SNOW: What is that answer?

A. Because an anchor don't hold good in sand and gravel.

Q. If they dragged for some time before they caught hold, how would the oil barge come up on her anchors, as to coming up hard or easy?

A. Why, she would naturally—she would come up easy.

Q. Captain, you were on the deck of the Samson all that night, after you came out, were you?

A. Yes, sir.

Q. Did you observe the oil barge at all?

A. What do you mean?

Q. Did you look at it at all?

A. Oh, no, no, I didn't pay any attention to it, no.

Q. Had the collision taken place when you got out?

A. Yes, sir.

Q. It had already taken place. Now, did you hear any orders given from the oil barge, or from the Henderson?

A. No, sir.

Q. Did you hear the anchors let go on the oil barge?

A. No, sir.

Q. The testimony on behalf of the libellant here is to the effect that the order to let go the anchors was given by the captain or master of the oil barge, and by Captain Sullivan about the same time. The captain of the oil barge from the stern of the barge, and from Captain Sullivan on the bow of the barge; and that the captain of the oil barge was roused by the whistles of the Henderson. He had to come from his room up on deck?

A. Yes, sir.

Q. Now, if he had given the orders to let go the anchors at the same time Captain Sullivan gave the order from the bow, and if he had been roused, as he says he was, by the whistles from the Henderson, several whistles from the Henderson, not the passing whistle, but the several whistles, and had to get up on deck from his room, and the anchors had been let go after he got on deck, and had given this order, would you have heard those anchors from where you were when you got on deck?

A. I don't think I would have, no.

Q. You don't think you would have. Why is that, Captain?

A. From the fact that the Henderson—I heard the last one or two of her several whistles that she blowed. She was at that time clear of the oil barge, swinging astern of the oil barge, and from the time he could get out of his room, get on deck, come up the companionway on deck, she would have been too far away for me to likely hear the anchors drop.

Q. How far could you hear the anchors drop?

A. I might have, if I paid any attention; I might have taken notice, but I didn't hear them; some times you will hear those anchors quite a ways.

Q. I believe it is claimed by Captain Sullivan that about 40 fathoms of the anchor chains went out. Now, if there had been 40 fathoms of anchor chains out, and the order was given about the time I have indicated, would you have been in position to hear those chains running through the hawsers?

A. Seems to me I ought to, but I didn't do it. It would take some little time for him to get out.

Q. Did you ever meet Captain Sullivan towing an oil barge on the river?

A. Well, I have met the oil barge, but I couldn't say who was pilot on the oil barge.

Q. Did you meet Oil Barge 93?

A. Yes, I met the Oil Barge 93.

Q. When did you meet her?

A. In tow of the Henderson, I think the 1st day

of August, 1912.

Q. Do you know who was pilot on the oil barge?

A. I did not, no, sir.

Q. I thought you told me you knew Captain Sullivan was?

A. No.

Q. I want to call your attention to another matter, before I pass from it. It is in evidence here that the bow of the Henderson was turned about two feet toward the oil barge, in lashing her to the oil barge.

A. Yes.

Q. What effect would that have on the lights on the Henderson and the oil barge?

A. Well, that would throw the lights out of range, the way they are supposed to be constructed. The law says that the vessel must be equipped with a red light on the port side, with a green light on the starboard side, and so constructed with an inboard screen, that they will show an unbroken light from dead ahead to two points abaft the beam. Well, both those lights were constructed that way, or supposed to have been, according to the law, and when they go to work and hitch one on at an angle to the other, the lights is bound to be out of line then. The colored lights are not going to show—they will show across the bow of each other.

Q. Captain, were you on deck at the time that the rock barges were picked up by the Samson the next morning?

A. Yes, sir.

Q. Did you notice where the rock barges were at that time? At the time they were picked up?

A. Yes, about where they were.

Q. They were anchored when they were picked up?

A. Yes, sir.

Q. I wish you would tell the Court where they were picked up, locating them from the Puget Island shore.

A. Well, one was just below the lower point of the island, and off from a sand bar, pretty close to the sand bar; close enough in so that when the tug went alongside, they kicked up the mud there. The other two was up some distance, I don't know. Probably a quarter of a mile up along the island, and they were about 200 feet from the island.

Q. Now do you know where the Hunting Island range lights strike through that channel?

A. Yes, sir.

Q. I wish you would locate where those barges were, with reference to that range of lights, above or below that range of lights?

A. They were above. That is, they were on the Puget Island side of it.

Q. Puget Island side of it?

A. Of the line, yes, sir.

Q. How far were they above the range of lights, in your judgment?

A. They must have been up 600 feet.

Q. Do you remember whether the Samson went

ahead any after the collision, after you came out?

A. No. I don't think they did.

Q. You don't think that she worked her steam any at all after that?

A. I don't think so.

Q. Do you know whether the Samson did anything that night, to direct the course of those barges, rock barges, after the collision?

A. No, I don't think they did anything.

Q. So where would the rock barges drift after the collision, as compared to the place where you found them the next morning?

A. Well, they must have been pretty close to Puget Island when the collision happened, to have drifted down where they were, because they drifted right along that shore. They would get below the draw from the other channel, and went straight down the shore.

Q. If the collision had taken place at the point "Q" on Libellant's Exhibit 1, what is the fact as to the places to which those rock barges would have drifted if the Samson had not directed their course after the occurrence of the accident at all?

A. They would naturally have drifted from here, they would naturally follow that shore right on down there.

Q. And where would they have been found, in your judgment?

A. They would have been found close to this shore.

Q. How would their position compare with the place where you did find them?

A. Yes. They should drift right straight down that shore, because they got below all the draw of this other channel, and naturally the current will be straight down that shore. If the collision happened here, they will naturally follow down close to that shore.

Q. Now, if that collision had taken place at the place where Captain Sullivan testifies it took place—I call your attention to the place he marked—and the rock barges had not been towed by the Samson after the collision took place at all, but merely drifted, where would these rock barges have drifted then?

A. They would have drifted more in this direction; drifted off here; naturally keep drawing towards this shore, and went off more towards this island here, Tenas Illihee Island.

Q. Captain Church, did you notice the condition of the rock barges the next morning?

A. Yes, sir, I did.

Q. Did you examine their condition?

A. Yes, sir.

Q. What condition did you find them in?

A. I found that the port barge had some—had been struck at the round of the port bow, and also there was a notch, a little off to the starboard of the center of the port barge, cut in about eight inches deep; by some sharp object looked like the stem of a boat, and the center rock barge had two planks broke,

and also had the nosing tore up; a mark on the hatch where some boats, or something had drug over the hatch, and the rocks on the center barge, there was one rock that had been knocked loose and tipped over, rolled down off another, and fell on the deck.

Q. On the center barge?

A. On the center barge, yes.

Q. Did you notice any paint on any of the barges?

A. I noticed paint, yes, sir. There was black paint almost the full length from the bow, from the round part of the bow, on back. The straight part of the barge had black paint on the nosing all the way, black paint on the fender post; also there was a four by fourteen piece, that is the side of the fender post that was knocked off, and there was yellow paint on the fender post.

Q. Did that barge have any black paint on her before that time, that you ever saw?

A. I never saw any there before.

Q. You say there was a mark of some boat on the center barge.

A. On the center barge?

Q. Yes.

A. Well, no mark particularly of a boat. Looked like went under something; looked like went through the hull, and likely did go through the hull, of the Henderson; and the nosing was slivered up. And where the guard had dragged past the bow, quartering past there, left the mark of passing from underneath the barge; the hatch had two planks broken,

two planks broke in her bow where she had struck against something.

Q. Do you remember you had to do anything to either one of these barges in order to get them down to Fort Stevens?

A. As soon as we started to tow them, the center barge commenced to leak; shoving the barge through the water, the swell would roll in to where the planks was broke. As long as she lay still at anchor, she didn't leak, but as soon as we towed, it leaked. We had to bulkhead.

Q. Captain Church, from your experience on the river, do you find it easier to judge the distance from shore where there is a bluff, or where there is only a low lying shore?

A. Well, it is easier in low lying than it is from a bluff.

Q. What is the fact as to being difficult to judge your distances from shore when you are under a high bluff like that at Bugby Hole?

A. Well, it is hard to judge distances, because the shadow of the bluff makes it dark, black, and you can't tell.

#### Cross Examination.

Questions by Mr. ERSKINE WOOD:

You say the current goes down through Bugby Hole and strikes the bluff. Isn't the natural effect, then, for the current to cushion off the bluff and go straight down the channel?

A. Yes, certainly it will; after it gets a certain

distance down there.

Q. Isn't the effect that it cushions off in such a way that there is very little current down Clifton Slough? Doesn't the main current go down the main channel past Puget Island?

A. The main current goes that way, because that is the biggest part here, but doesn't all.

Q. Doesn't it cushion off so there is no appreciable current down Clifton Slough?

A. There is quite a current through there, yes, sir.

Q. But the main current does go, of course, down past Puget Island?

A. It is a fact, though, that any drift wood that comes down the Oregon side of Puget Island with an ebb tide—

Q. The Oregon side of Puget Island?

A. The Oregon side of Puget Island. Any drift-wood that comes down through there, goes through this slough.

Q. Through which slough?

A. Through this Prairie Channel. It is a fact. I don't suppose—

Q. I don't believe you stated what you meant, quite. You said any drift that went down the Oregon side of Puget Island.

A. The Oregon side of Puget Island, coming from Westport, down that way.

Q. You mean any drift which follows along close to the Oregon shore.

A. Any driftwood that comes at all through that

side. You could turn a log loose in above Coffee Island right here in the ship channel, turn it loose there, not anything at all to bother, and it will go through Prairie Channel.

Q. From Coffee Island?

A. Yes, sir.

Q. What stage of the water?

A. On an ebb tide. On an ebb tide, without anything to bother it at all.

Q. You mean then, that all the drift that comes down the river on this side, all the drift that comes down the river between Puget Island and Bugby light, goes down towards Clifton Slough?

A. Most all of it does, yes, sir.

Q. That would show then, that the whole current went down Clifton Slough?

A. It don't show the whole current goes through there, but shows the drift goes that way, that the current naturally sets in there enough so that the drift can't get back.

Q. What do you think it does indicate, if not the drift goes down Clifton Slough?

A. That is the way the current is drawn from this place here. If you turn a log loose at this slough—

Q. I don't know what you mean by here.

A. Get up and look, then.

Q. No, you tell me what it is.

A. This slough here below the point. You turn a log loose there and it will go down the main channel.

Q. You mean Grove Slough?

A. I don't know.

Q. The largest slough?

A. Above Ostervolt's there, anyway. You turn a log loose there, and it will follow the main channel down.

Q. Have you towed logs out of Clifton Slough, or Prairie Channel?

A. Yes, sir.

Q. Those are the same, Clifton Slough and Prairie Channel?

A. Yes, sir.

Q. Towed them up there often?

A. Yes, sir.

Q. Isn't it a fact that in towing a log raft out of Clifton Slough, you have to head up well towards Bugby Hole towards Hunt's Mill Point, and as soon as you get up there, the tail of your raft swings past the head of Tenas Illihee Island, and tails down the main channel?

A. It is not. It is not a fact.

Q. You mean the raft tails down Clifton Slough?

A. Yes, sir.

Q. Have you ever towed log rafts out of Clifton Slough, and cut across the river, and cut down Cathlamet Slough?

A. Always in the June freshet.

Q. How do you do that?

A. Pull right past the point, and out into the river.

Q. Past what point?

A. Point of Tenas Illihee.

Q. What?

A. The upper point of Tenas Illihee; pull right past the upper point of Tenas Illihee into the river, until your raft gets clear, and swing down and go down the other side.

Q. You have to pull up the river?

A. You are pulling up the river when you get out of that slough.

Q. Don't you have to tow up the river, to enable the tail of your raft to swing past the head of Tenas Illihee?

A. Yes, towing up the river all the time.

Q. On Libellant's Exhibit 1, show how you pull out of Clifton Channel with a log raft.

A. Is this the line of Tenas Illihee?

Q. It is the head of Tenas Illihee Island.

A. Pull along this shore.

Q. Then how do you go with the head of your raft?

A. Keep right on ahead like that, just as we come by the island; as soon as the raft is clear here, we swing right around.

Q. Mark the course of the log raft.

A. Naturally, when you get to the head of the island, you are not going to follow around it. You tail yourself off, and go ahead here.

Q. I want you to go up as far as you go.

A. Well, measuring this up would be 1500 feet; when we are clear of there would be 1500 feet. We are then 1500 feet. We turn here and go through this

slough. We are going upstream when we are towing the raft.

Q. Point "XY" then marks the head of your raft as you bring it out of Clifton Channel? About.

A. Oh, about, yes. Call it 500 feet, or call it 1500 feet, if you want to. Have to be 1500 feet clear of the island before you can swing down.

Q. When you get there, how does the tail of your raft swing?

A. As soon as the tail of the raft swings here, and you start to pull down it naturally is going to go that way, down that channel.

Q. What channel?

A. Down the main channel; down the main river.

Q. As soon as you get to the point XY, then the tail of your raft swings past the head of Tenas Illihee Island, and tails down the main channel—is that right?

A. Yes, sir.

Q. Why do you head over to Cathlamet Slough, and tow up that slough, instead of going up the river?

A. To save the company fuel bill.

Q. To avoid the strong current of the river?

A. Shorter run from here than it is to go around the main channel.

Q. Why do you go up Prairie Channel, Captain Church? Do you get logs down that Prairie Channel?

A. Yes, sir.

Q. That is where you pick them up?

A. The logs is put in down there, yes, sir.

Q. Now, Mr. Minor questioned you at some length on Captain Sullivan's testimony, and the course that he had drawn on this chart, Libellant's Exhibit 1, and asked you what lights would appear in such and such positions. I want to ask you whether you based your answers on the supposition that those positions were marked with accuracy, or whether you knew that they were just marked approximately?

A. Why, I just went by the marks that is there, the directions that he gave me. That is all I could go by.

Q. Knowing that those markings are just indicating approximate positions?

A. Certainly.

Q. Do you undertake to say that the lights would show positively as you have indicated?

A. Certainly; if the lights were arranged right on the vessel.

Q. I show you Libellant's Exhibit 2, which is another drawing of Captain Sullivan's, indicating approximately his courses and the course of the Samson, as he understood it, and will ask you if Captain Sullivan started from the point F when he saw the Samson, and the Samson was at the point K, and pulled sharply off the range toward the Oregon shore to the point marked "G" and then straightened up on her course parallel with the range, and ran to the point of collision marked "H", and the Samson ran from the point "K" down to the point of collis-

ion, what lights do you think would show from the two boats to each other?

A. Why, the Samson would be showing the green light, and the oil barge the red light.

Q. You don't think then that on this course that I have indicated to you both lights would show to each boat?

A. No.

Q. Although, Captain, the point G is, roughly speaking, well ,it is all of half a mile from the point L, you still think they wouldn't see both lights?

A. Well, when the Samson got there, she might have been showing two colored lights; if she was running exactly in that shape heading there she wouldn't be showing the two lights until the oil barge got close up here to this No. 2, as you have it here; close up to there; would have to get up pretty well. The further the oil barge got, the better showing of both lights.

Q. But the oil barge running the course marked G-1-2, wouldn't both her lights show to the Samson?

A. No.

Q. Captain Church, Captain Jordan testified that he came around the point of Puget Island in Bugby Hole, as he said, 400 feet off Puget Island shore. Then he said he might have been 800 feet off, and he came around on the port helm and saw the Henderson; put his helm over to port; ran on for a little distance until he got the first whistle, and put his helm more to port; and then ran on to the second whistle

on a practically hard aport helm, on the helm most effective to throw his vessel to starboard, and at the second whistle which was from 30 seconds to a minute before the collision occurred, put his helm hard aport; and on this helm, which he said was most effective to throw his vessel to starboard, I think he said ran five or six minutes. I know he said that before the Inspectors. Wouldn't that have thrown his vessel aground on Puget Island shore, long before he reached the place where he said the collision occurred?

A. Not at that place it wouldn't.

Q. What place?

A. Bugby Hole.

Q. When you come around Bugby Hole, do you hold a port helm all the time?

A. To head her up, yes.

Q. Don't you hold a port helm and steady and put her helm over, and steady again?

A. Yes, sir.

Q. You don't hold port helm all the time?

A. Not if have a clear river, have all the river to get by.

Q. You then think Captain Jordan, with his helm the way he described it to be, would not hit Puget Island?

A. I don't think he would.

Q. Didn't you testify before the Inspectors you thought he would?

A. Supposed he would, yes.

Q. You said in your opinion he would?

A. Yes.

Q. What has made you change your opinion?

A. Because I have had more experience since.

Q. How long have you been a master?

A. What?

Q. How long have you been a captain?

A. How long have I been a captain?

Q. Yes.

A. Since 1890. I haven't been captain of the tug Samson all this time.

Q. Up until two years ago, you didn't have enough experience to know about these things, but since then you have acquired it?

A. On the tug Samson, yes.

Q. How long have you been on the tug Samson?

A. Three months to that time. I think I had taken that tug through there once before that or twice, I ain't sure which.

COURT: I want to understand what this difference in his opinion is. I don't get it clear. Let the witness tell.

Mr. ERSKINE WOOD: If I don't get this correctly, Mr. Minor, correct me. Before the Inspectors, Captain Church said that if Captain Jordan had held his helm the way he said he did, coming from the bend of Puget Island in Bugby Hole down along the shore of Puget Island, as he claimed, Captain Church said the Samson and her barges would have been ashore on Puget Island—

A. I said I thought they would.

Mr. ERSKINE WOOD: (Continuing) Long before they reached the point of collision. He now reverses his judgment.

A. I have reversed it. At that time I had only had three months on the Samson, and had only taken her through there one time, once or twice, I wouldn't be positive. Since that I have had 16 months' experience, and took the boat through there many a time.

COURT: You are answering about vessels on that course. You were asked about what lights would show. Did you mean that the lights, the green light of the Samson would show if she was held in that position that you say you would have to hold her up toward—head up toward Puget Island, in order to keep from going ashore on the Oregon side—would she still show the green light?

A. No, if you are going down there with a tow, of course if you are running straight; they asked me if running straight on that course. I say it won't show, but if you are holding up to the Puget Island you are going to show two lights, or you may swing enough to show the red light.

Q. When you came on deck, immediately after the collision, on what part of the boat were you standing?

A. Forward of the pilot house.

Q. How long was that after the collision?

A. Oh, a minute, maybe. Maybe a minute. I

don't know how long. I didn't time it.

'Q. And you asked Captain Jordan where he was at the time of the collision, did you?

A. Yes, I asked him something in regard to that, yes, sir.

Q. And didn't he say "I have just swung on the ranges?"

A. I asked him, but I don't remember now just exactly what he said, but he said, "I was just coming to the ranges," or "was just swinging on the ranges," or something to that effect. I don't know.

Q. I will refresh your memory, Captain Church. This purports to be your testimony on the trial of Captain Jordan before the Inspectors, and I will ask you if you didn't testify this way: "Q. At the time of the accident, did you notice how far you were from Puget Island? A. No, sir. Q. You didn't pay any attention to that? A. I didn't pay very much attention to that, no, sir. I didn't even pay any attention to which side they were of the ranges. I just asked Captain Jordan where we was at, and he said he had just swung onto the ranges. Q. Said he had just swung onto the ranges. You asked Captain Jordan where he was at, and he said he had just swung on to the ranges? A. Yes, sir. He said he had just swung onto the ranges. That would be in here, you know, somewhere near the center, and coming down in the neighborhood of here (indicating on chart)." Do you remember testifying that way?

A. Yes, I said something about that. I don't re-

member just what was said about it, though.

Q. You think that was your testimony?

A. Sure, that is my testimony; certainly it is.

Q. And did you testify as follows, Captain, at the same trial: "Captain, do you know as to about—well, you answered that you didn't know. But when you came out, and asked Captain Jordan where he was at, he said that he was just going onto the ranges? A. Well, yes; I believe that is the words he used, just got to the ranges, or just swung on the ranges, I would not be positive just what he did say, whether he had just got to the ranges, or just swung on the ranges. I would not be positive which words he did use." Now, Captain, you repeated that two or three more times. I won't read them all, but isn't it a fact—

A. That is what I said now.

Q. Now that I refresh your memory, that Captain Jordan told you when you asked him where the collision occurred, that he had just swung on the ranges at the time of the accident?

A. I tell you just as I said there. I don't remember now whether he said just swung on the ranges, or just to the ranges, one way or the other; I don't know.

Q. I don't really see that that would make much difference, would it?

A. I don't either. I don't see what you are putting in all this time for.

Q. Now, Captain, you treat me with politeness,

and I will treat you the same way. Now you remember that.

A. Well, go ahead.

Whereupon proceedings herein were adjourned until 8 P. M.

Portland, Ore. Tuesday, Jan. 14, 1914, 8 P. M.

CAPTAIN J. O. CHURCH resumes the stand.

Cross Examination continued.

Questions by Mr. ERSKINE WOOD:

You say that when you came on deck right after the collision, Captain Jordan told you that at the time of the collision, you had just swung on the ranges. Is that right?

A. Something to that effect, yes.

Q. When you come around the bend of Puget Island, do you hug in close to Puget Island shore, or stay out in the river?

A. Ordinarily hug in pretty close, yes, sir.

Q. Captain Church, do you remember testifying as follows, at the trial of Captain Jordan before the Inspectors, following this collision: "You have a particular course in which you generally run down here, don't you, at night time; coming down here to turn that bend, do you make that turn closer to the Puget Island side, or the Oregon side? A. Close to Puget Island side, or about the center, just about the center." Do you remember testifying that way?

A. Why, I don't remember, but if it is there, I suppose I did, yes.

Q. Which is the fact? Do you round that point

close to the island, or close to the center of the river?

A. Ordinarily pretty close. May be out as far as the center some times.

Q. But your usual course is closer to the island?

A. Ordinarily, yes.

Q. Now, when you come around, you go on port helm, and how far do you go down before you straighten her up?

A. Well, until we get quite a piece. There is kind of a question in my mind as to where you call the point of Puget Island.

Q. I mean the upper point of Puget Island, right at Bugby Hole.

A. I know, but that point, not a square point, a round point—a circle there.

Q. Where do you commence to port your helm to go around the bend?

A. As soon as you get to the upper side of the point.

Q. All right. How far do you run that way?

A. Close onto a quarter of a mile around that before you are directly around that point.

Q. Then you begin to straighten her up?

A. Yes.

Q. Then you give her some more port helm?

A. Yes, generally straighten up, or head her a little over to the island, and then straighten her up.

Q. What is the speed of the Samson running as she was that night?

A. What do you mean by speed?

Q. Don't you know what speed is? What could it mean?

A. Well, her speed through the water, or speed past the land?

Q. I mean the speed past the land as she was running that night.

A. Well, she was probably making in the neighborhood of eight miles an hour, between seven and eight miles an hour.

Q. Did you examine the port side of the port rock barge?

A. Yes, sir.

Q. What injury did you find on the port side of Barge No. 9?

A. I found where she had struck against something solid, and mashed the covering board up; also the dead wood there in front was mashed up on the port side, where she had struck something.

Q. Were the ribs cracked?

A. No, sir; didn't notice; didn't go into the hold to see if so.

Q. But the nosing of the deck was rolled up on the port side?

A. Yes, sir.

Q. How long did it take you to drop your anchors on the stone barges that night?

A. How long did it take?

Q. After the collision.

A. Oh, I don't know. I couldn't say; didn't pay much attention to that time; might have been ten

minutes; might have been twenty. I don't know.

Q. How far is the range off the shore of Puget Island at the point of the collision, in your estimation?

A. I have been shown two points of collision here now. Which point do you mean?

Q. That was a vague question. I mean opposite the point where Captain Jordan claims the collision took place. How far is the range off the island?

A. The range would be about half a mile across the river there.

Q. Captain Church, did you get a letter from Mr. Daniel Kern saying that Captain Jordan had been reinstated, and you could now take him back under your command?

Mr. MINOR: I don't know what the purport—

COURT: Objection sustained.

A. I don't know. I wouldn't say I did. I wouldn't say I didn't. I don't remember such.

Mr. MINOR: Never mind.

Questions by Mr. SNOW:

Captain Church, how wide apart are the two colored lights of the Samson—or let me ask you, before I ask that: Has there been any change in the lights of the Samson since the collision, in July, 1911?

A. No, sir; no change.

Q. Then the lights are the same now as they were then?

A. Same now.

Q. How wide apart then, are the two colored lights of the Samson?

A. I couldn't tell you that exact distance.

Q. Well, you can give us pretty near to it. Take the green light on the port side—

A. That would be pretty hard for me to say, honest, so long since I have been on the boat. Probably about, oh, sixteen feet, I guess, maybe. I couldn't say.

Q. Now, how far dead ahead of the Samson must one stand, in order to see both of those lights, both the red and green lights?

A. Dead ahead? Just about 400 feet, probably.

Q. Now, one standing dead ahead of the Samson can see both lights at 400 feet distance from the stem of the Samson?

A. I think so.

Q. And you think that the two lights are approximately 16 feet apart?

A. In the neighborhood of that, yes, sir.

Q. Then you can't see both lights—standing on the bow of the Samson you can't see both lights of the Samson?

A. No, sir.

Q. And one has to stand about 400 feet dead ahead of the Samson to catch both lights?

A. I think so, yes, sir.

Q. That is, had screens the other side of the lights?

A. Yes, sir.

Q. Now, Captain, when the Samson came down the river that night with the two mastlights, one above the other, and when the Henderson came up the river with her two mast lights, assuming she had two mast lights, Jordan was bound to assume, was he not, that the Henderson was in tow of something?

A. Yes, sir.

Q. That is the customary tow light, isn't it?

A. Yes, sir.

Q. It is nothing unusual, is it, Captain Church, to have the nose of a vessel towing another—to nose in towards the tow?

A. No, no. No, it is not unusual.

Q. That is the custom on the river, isn't it?

A. Ordinarily, yes.

Q. In that way they get better control of the tow, don't they?

A. Yes, sir.

Q. So it was not unusual then for the Henderson to nose in a little towards her tow, to which she was lashed that night?

A. No nothing unusual at all.

Q. And any experienced river man would know, would he not, from the lights, that he saw on the Henderson, that she had a tow in hand?

A. Yes, he would yes.

Q. You answered to counsel, Captain Church—I will ask you the question again, and let counsel take the objection if he will: You said that you couldn't

around here, until we get this Lower Skamokowa light open.

Mr. C. E. S. WOOD: "There" he said, and "this." It isn't definite.

Q. What has this Bugby Hole light to do with your sailing, say, from Coffee Island? You are sailing outside Coffee Island, I said. What has that to do? What light do you sail for before you make this turn?

A. None.

Q. That Bugby Hole light doesn't help you any to come down the river?

A. No, if you want it that way.

Q. What does this Bugby light do for you at all?

A. Don't do any, any more than we see the Bugby Hole light, so know what it is, and we hold our vessel far enough to clear this point, and if it is light enough, the top of this hill shows, and we keep in sight of this hill, and we avoid that, and that clears this point.

Q. By "here," you mean back on the bluff?

A. Yes, sir.

Q. And the little saddle there?

A. Yes, sir.

Q. And you make for that saddle?

A. Yes, sir.

Q. Where do you strike the two range lights, before you get the Hunting Island range?

A. Down here. That is, we make a circle, and get in about here. We are about here in the river.

Then we head straight for Swamokawa light, which is not there now. No Skamokawa light on this chart, if you will notice. I should judge maybe that is near the neighborhood. That puts us right in here at this No. 44 on the range.

Q. Ordinarily then, coming down the river you make for the Hunting Island range lights, where I mark this big cross?

A. Yes.

Q. You make for that Hunting Island range light, where I mark the big cross?

A. Yes, from there.

Q. After you round the point here, you try to make that point?

A. Yes, sir; yes.

Q. I have marked this cross with your initials, "J. C." and marked it as "point on Hunting Island Range which vessels usually make for after rounding the point of Puget Island." That is correct, is it?

A. Yes, sir.

Q. Now, ordinarily, then, Jordan, if he were sailing that night according to the usual custom, would have made this point that I mention?

A. Yes, sir.

Q. On the Hunting Island range?

A. Yes, sir.

Q. And from this, you sail down the Hunting Island ranges?

A. Yes, sir.

Q. Now, do you know where Jordan said, or what

Jordan meant as to where he was when he told you —when you came up after the collision, and asked him where he was, and he said he was just passing into the Hunting Island ranges?

A. I think I said, he said he was about the Hunting Island ranges.

Q. Where did you understand him to mean he then was at that time?

A. I merely understood that he was in the neighborhood of there. He might have been above or below.

Q. He might have been either above or below the range?

A. Might have been above, or might have been on the range.

Q. In the neighborhood of this point marked "JC"?

A. Yes, sir.

Mr. C. E. S. WOOD: You are talking about the time of the collision?

Mr. SNOW: No, before the collision.

A. I didn't speak to Jordan until after the collision.

Mr. SNOW: I am talking about the conversation after, but where Jordan was.

Mr. C. E. S. WOOD: They were both talking about before the collision.

Mr. ERSKINE WOOD: They are talking about where Jordan was at the time of the collision.

COURT: The Court understands that Captain

Jordan told him he had just swung onto the ranges, meaning before the collision.

Mr. C. E. S. WOOD: At the time of the collision.

COURT: If he had just swung on the ranges, that would be just before the collision.

Q. Where did you understand Captain Jordan to mean he was when he said that to you?

A. I just supposed he was about in that neighborhood of swinging onto the ranges. Yes, that is what I said.

Q. At the point of the range marked by that cross?

A. Yes, I understood it that way. He might have been above there.

Q. Or might have been below. That was your answer. Is that correct?

A. I don't think he was below, no.

Q. You don't know where he was?

A. No, I don't know where he was, for I never paid any attention to the range lights myself.

Questions by Mr. ERSKINE WOOD:

Captain, you say it is quite customary for a vessel to tow a vessel at this slight angle at which the Henderson has been described, as being lashed to the oil barge?

A. I believe so, yes sir.

Q. You have towed them yourself that way?

A. Yes, sir.

Q. Don't you always tow them that way?

A. Yes, sir.

Q. That is the regular custom?

A. Yes, sir.

Q. That doesn't have any appreciable effect on the appearance of the side light to a man in front, does it?

A. Yes, sir, it does.

Q. At any distance at all?

A. Yes, sir, it does.

Q. Just explain how that will come about?

A. Because any distance ahead they will cross. The fact is, you will be almost abreast of a vessel, the bow of a vessel some times, before the light will show out. Now, if you want me to cite you to a fact, you can—

Q. No, I don't want you to explain how it happened. I want you to say whether, in your opinion, any man seeing that a vessel had a tow alongside, and knowing that they always tow that way up and down the river here, would be confused by the appearance of these side lights?

A. Certainly, he may have been confused by them. We are often confused by them.

Q. With the stem of the tow boat nosed in only two feet to the side of the tow?

A. Yes, sir.

Q. I wish you would draw a diagram, or explain it any way you can.

A. I can explain in one way. On August 1, 1912, after the Henderson was rebuilt, practically the same boat-shaped model, constructions alike—

Mr. SNOW: Just a moment. I object to that question.

Mr. MINOR: He asked for an explanation. He has a right to have it explained.

A. He asked for an explanation.

Mr. SNOW: I am making this objection, if your Honor please, because this is incompetent, anything after—

COURT: As I understand, he is simply giving an illustration to explain how in the same manner this confusion occurred, by giving a specific instance.

Mr. SNOW: I don't think he is entitled to give any specific instance, after the accident.

COURT: Because it happens to be the Henderson used as an illustration doesn't affect the matter. The objection is overruled.

Mr. SNOW: I will take an exception.

COURT: Exception allowed.

Q. Go ahead, Captain.

A. This night of August 1, 1912, I was going down on the tug Samson below Oak Point, and I sighted a steamer coming with a tow, which proved to be the steamer Henderson with Barge 93, the same vessels in question. I passed her on the starboard side, and I seen the Henderson's red light until I had got far enough past that barge that the pilot house of the barge—which I believe they have testified here is 20 feet aft the bow of the oil barge—and that red light was in my sight until it shut out behind the pilot house of the oil barge. —

Q. Didn't confuse you in any way, did it?

A. No, because I had lots of room, good clear night; didn't particularly confuse me, no, but it would in places.

Q. How would that affect you way up the river, coming down on two boats.

A. How is that?

Q. How would that slight diversion, or slight angle, affect you coming down on those two boats, a mile away from them?

A. Would affect considerably. If a good dark night, you couldn't see the shape of the boats, and know what it was. You wouldn't know whether a man was coming straight ahead, or coming towards you.

Q. I want to know how it would affect you a mile distant, or half a mile, even?

A. I just said I couldn't tell whether the man was heading straight for me, or swinging across my bow. If I keep pulling over to the port, and try to pass him to starboard, and I can't shut his red light out, it looks to me that he is swinging and coming to me, don't it?

Q. Although it is the universal custom on this river, and you see the tow lights, and know the ship has a tow alongside, you think it might confuse a man?

A. Certainly, it would confuse a man, and does do it.

Mr. C. E. S. WOOD: I would like to understand

that myself. (Illustrating) That is the inboard screen, and this is the port red light, and she was nosed in a little to the oil barge?

A. Yes, sir.

Mr. C. E. S. WOOD: If she had been just parallel to the oil barge, without any inboard screen, would have been just parallel line that way?

A. Yes, sir.

Mr. C. E. S. WOOD: Now, she nosed in a little, two feet. How much of an angle does that make the inboard screen towards the oil barge? How much of an angle does two feet in the whole length of her?

A. It isn't two feet the whole length. I think you will find these colored lights are only in the neighborhood of 35 feet on that boat.

Mr. C. E. S. WOOD: Make your own figures.

A. You can't get me on figures. I am not good on figures. You people here who can figure, can easily figure the angle of two feet in thirty five—I should judge thirty-five feet.

Questions by Mr. C. E. S. WOOD:

Let's take the line and it noses in like that. How on earth is that going to affect anything in the whole arc above it?

A. It will affect a whole lot, because of the two colored lights crossing. You will have to get away; be off a long way; when a mile off, an angle there of two feet in thirty five feet, and you are a mile away,

if that isn't going to make quite a diversion in these lights crossways, I don't know why.

Q. You have got the green lights over here on the oil barge?

A. Yes, sir, sure.

Q. This is the only one that is deflected?

A. I know.

Q. And it will show through that entire arc of the horizon, won't it?

A. Yes. Is that oil barge running straight ahead, her green lights supposed to show straight ahead?

Q. They are running together.

A. Yes.

Mr. C. E. S. WOOD: We will offer this in evidence.

Drawing used as illustration marked "Libellant's Exhibit 25."

Questions by Mr. ERSKINE WOOD:

How far starboard of Barge No. 9, do you think this dent was that was made by the stem of the Henderson?

A. Somewheres about six or seven feet—I don't remember, don't know as I particularly noticed that. Maybe I did too, maybe I measured it. I don't remember now.

Q. Your recollection is now about six or seven feet?

A. Yes, I think it might be more. I don't know. Maybe I measured; maybe I so testified the other day. I don't know—that neighborhood.

## Redirect Examination.

Questions by Mr. MINOR:

Now, one question I forgot to ask, with your Honor's permission, I will ask now. Captain, there is evidence here to the effect that the stem of the Henderson struck the bow of Rock Barge No. 9, and made a cut in it. Now, if the stem of the Henderson struck the bow of Barge No. 9, and made a cut in it, the cut being somewhere between six inches and two feet in depth, what effect, in your judgement, would that have on the stem of the Henderson?

A. Well, that is a pretty hard question. It wouldn't dent the stem of the Henderson very much from the fact that there is a stem iron there which is  $2\frac{1}{2}$  by  $3\frac{1}{2}$  inches, I believe, somewhere in the neighborhood of that, and solid oak behind it. That is about eight inches in the thickest part, tapered off to four inches in the sharp part, in the neighborhood of sixteen inches thick, and the planking of the vessel butted against that all the way along, a solid mass, and the bow of the stone barge, where she was cut is not very thick, eight inches thick, and fir wood, and that sharp iron point would go into it pretty easy, without making much of a dent on the stem.

Q. Have you any experience of that kind?

A. Well—

Mr. SNOW: I think that is incompetent, if your Honor please, and I object to it as such. That is the privilege of cross examination, and not the privilege of redirect examination.

COURT: Objection sustained. It is not redicert.

Mr. MINOR: I don't ask it as redirect.

COURT: It is more in the nature of cross examination.

Mr. MINOR: I don't ask it as cross or redirect. I asked if he had any experience on which he bases his judgement.

COURT: The objection is sustained.

Mr. MINOR: Very well; I ask for an exception.

COURT: Exception allowed.

Q. Now, Captain, your attention is called to the shore here. I call your attention to Claimant's Exhibit A. In testifying where you crossed the range light, you complained that the Skamokawa light was not shown on that chart?

A. Yes, sir.

Q. And why were you asking for the Skamokawa lower light?

A. Because, when we round this point here of Puget Island, as soon as it comes clear, we steer for Skamokawa light.

Mr. SNOW: Upper or lower Skamokawa?

A. Upper.

Q. Where is upper Skamokawa light?

A. Upper side around on the point.

Q. G. That is the point G on this exhibit. I wish you would put a straight edge on that, and state about where that line would cross that range?

A. I don't know just how far you are off shore here.

Q. Anywhere where you think you turn; wherever you think you turn down there.

A. There would be where you cross.

Q. What figures have you got there?

A. A little bit below this here.

Mr. C. E. S. WOOD: A little bit below the point already marked "O"?

A. Might be pretty hard to tell. Wouldn't make much difference; practically the same thing.

Q. You were on the range there. Mark that point where you was.

A. With this chart, I can't mark that straight edge.

Q. Mark it all the way. Never mind the cross; just where you crossed. (Witness does so). That line you mark there.

Mr. MINOR: We mark that line which witness has shown as "XY." That is the line he marks on the chart, the point where cross the range.

A. That is a little far down, too, I guess.

Q. The place where they cross the range is point Y, is it?

A. Yes, sir.

#### Recross Examination

##### Questions by Mr. ERSKINE WOOD:

Mr. Minor admitted in the record he is still in the employ of the Columbia Contract Company.

Mr. MINOR: I think he is; I don't know.

Q. You are, are you not, Captain?

A. Yes, sir.

Mr. MINOR: I didn't know whether he was or not.

Witness excused.

A. SASS, a witness called on behalf of the claimant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. MINOR:

Captain Sass, what is your business?

A. Well, steamboating is my business, sir.

Q. You hold a license as pilot?

A. Yes, sir; pilot and master.

Q. Did you hold that kind of a license in 1911?

A. Yes, sir.

Q. What steamboat were you on during that year?

A. I was on the steamer Hercules, sir.

Q. What business was she engaged in during that time?

A. Towing business.

Q. What was she towing during that time?

A. Towing rock barges.

Q. From what point?

A. From Fisher's Landing; used to transfer down Stella, Eureka, Waterford, Westport light.

Q. And to what steamer did you transfer your barges?

A. Steamer Samson.

Q. Do you remember towing barges of that character on the evening of July 21-22, 1911?

A. Yes, sir.

Q. Now, Captain, do you remember July 22, 1911 was the night on which the collision took place between the Samson and her barges, and the Henderson and her tow?

A. Yes, sir.

Q. You remember that time, do you?

A. Yes, sir.

Q. Now, did you examine the barges which you took down from Fisher's Landing on July 21st of that year?

A. Well, yes.

Q. Do you know whether those barges were in good condition, or not?

A. They were in good condition when I transferred them to the Samson.

Q. Were there any breaks in them or cuts in them, or anything broken about them?

A. Nothing at all, sir; they were in good shape.

Q. What about the lights on those barges? Did you put out the lights?

A. The bargemen always puts out the lights, and I see they are out all the time. Always are put on each barge except the middle barge.

Q. Where are those lights put on the barges?

A. Put on the quarter, about 20 feet back from the bow, each side light.

Q. One put on the port barge, and one on the starboard barge?

A. Yes, sir.

Q. What kind of lights are they?

A. Just ordinary lanterns.

Q. White light?

A. White light, bright.

Q. Do you remember whether the lights were on those barges that night of the 21st?

A. Yes, sir, they were there.

Q. Were they on the barges at the time you turned them over to the Samson?

A. Yes, sir.

Q. Were the lights in good condition at that time?

A. They were in good condition, sir.

Q. Did you get those barges from the Samson when they came back up the river from Fort Stevens?

A. Yes, sir.

Q. Did you notice the condition of those barges when you got them back?

A. Well, 29.

Q. 27, it was.

A. Twenty seven and nine were damaged some.

Q. Both of them damaged?

A. Yes, sir.

#### Cross Examination.

Questions by Mr. SNOW:

Captain Sass, do you superintend the loading of any of those barges?

A. No, sir; they have a superintendent to the quarry that does that.

Q. You don't know how high up on the barges the

stone was piled?

A. Well, depends upon the weight of the stone, how many stones it takes to load the barge.

Q. I mean that night? You don't know anything about that?

A. I don't remember exactly, no.

Q. How near to the bow of the barges was the stone piled?

A. Well, there were—

Q. Now, if you don't remember, say so. If you don't know, say so.

A. Well, I should judge about 20 feet from the bow.

Q. About 20 feet of the bow was without any stone on it at all?

A. Yes, sir.

Q. The light that you speak of being on the port barge was put where? How was it fastened?

A. Well, they set them on the barge, and have a line to them, and they generally fasten them with a rock or something, so the wind won't blow them off. Lots of times fasten them to a ring bolt; ring bolts on there, and lots of times fasten them to that.

Q. This light on the port barge, for instance; was it placed aft the stones or ahead of the stones? Do you know as to that? If you don't know, say so.

A. Well, it is about eight feet forward of the stone, six or eight feet, something like that. Sometimes it depends on how the stone was piled on the barge. Sometimes sets right in front. Of course, we have

to head them in, rather—

'Q. I am speaking of this night. You don't know how this light was located this night?

A. I should judge about six or eight feet.

Q. I want to know what you know about it. I don't want any guessing, please. If you don't know, say so. If you know, say so.

A. Well, six feet; six feet away.

Q. Six feet away from what?

A. Front of the rock.

Q. Front of the rock?

A. Yes.

'Q. Wasn't eight or ten feet or fifteen feet from the front of the rock?

A. No, sir.

Q. Wasn't three feet from the front of the rock?

A. No, sir.

Q. Was six feet?

A. About that neighborhood.

'Q. Was it seven feet?

A. Well, I didn't go out and look at it and see.  
Questions by Mr. ERSKINE WOOD:

The Hercules is one of the Columbia Contract Company's tugs?

A. No, sir.

Q. You are her master?

A. Yes, sir.

Q. Still are?

A. Yes, sir.

Witness excused.

CAPTAIN J. P. COPELAND a witness called on behalf of the claimant, being first duly sworn testified as follows.

## Direct Examination

Questions by Mr. MINOR:

Captain, what is your occupation?

A. I am a steamboat master.

Q. How long have you been in that occupation?

A. I think I have held a license for about 18 years, as master.

Q. Master 18 years?

A. Yes, sir.

Q. What steamers have you been master of in that time?

A. Well, I couldn't say all of them. I have been master of the Hercules and the Samson, the Daniel Kern, the Cascades, Fannie, the Emma Hayward, and the Oklahoma.

Q. Now, on what waters have you been engaged as master?

A. Willamette and Columbia Rivers and tributaries.

Q. Are you acquainted with the waters of the Columbia River between Vancouver, or, between, I will say, Fisher's Landing and Astoria?

A. Yes, sir.

Q. You know the place commonly known as Bugby Hole?

A. Yes, sir.

Q. Do you know Puget Island?

A. Yes, sir.

Q. Do you know Tenas Illihee Island?

A. Yes, sir.

Q. Have you been navigating those waters during this time?

A. Yes, sir.

Q. Were you master of the Kern in 1911?

A. Yes, sir.

Q. In what business was she engaged at that time?

A. She was employed in towing rock from Fisher's Landing to Fort Stevens.

Q. Now, in coming out of Bugby Hole, which I understand is a dark place between Puget Island on one side, and the Oregon shore on the other, I will ask you if you know how the currents in the river set there?

A. At ebbtide, they set across the river.

Q. At what kind of a tide?

A. Ebb tide.

Q. In what direction?

A. Toward the Oregon shore.

Q. Toward the Oregon shore?

A. Yes, sir.

Q. Is that a strong current, or otherwise?

A. Well, if there is a strong tide running, it is a strong current that sets down.

Q. In towing these barges with the Kern—by the way, you have towed with the Kern how many

barges?

A. Two.

Q. In towing these barges with the Kern, if you run down to the range light on the course before you make the turn, to go around Puget Island, what is your experience in regard to being carried by that current?

A. Well, that would depend on where I would strike the range lights. If I strike the range lights in about the bluff of the hill, it will carry me off the range lights towards Tenas Illihee Island.

Q. Towards Tenas Illihee Island?

A. Yes, sir.

Q. What then is the course which you pursue in coming around through these waters?

A. I usually keep nearer the Washington shore or Puget Island side.

Q. And about what point do you get the range light?

A. Well, I usually aim to get the range lights about—well, there is a trap up about half way between two sloughs, one a large slough, the other a small one. I usually aim to get the range about half way between this slough and where an old trap comes out from a seining ground there is there.

Q. I call your attention to Claimant's Exhibit A. I wish you would point out to the court the two sloughs you speak of.

A. This slough here, I don't know the name of it—this slough here, and this slough down here.

Q. And you generally aim to get the ranges between those two sloughs?

A. Yes, a trap comes in almost in front of this slough here.

Mr. SNOW: That is the lower slough?

A. Yes, that is the lower slough. It extends out, I think, the engineers make it, 600 feet, extending out in the river.

Q. Let's mark these two sloughs "1" and "2". And you aim to come on the ranges between the mouth of Slough 1 and Slough 2?

A. Oh, well, more than half way down to Slough 2, get on the ranges, and run down the ranges.

Q. Trap, you say, at the mouth of which slough?

A. At the mouth of No. 2, not exactly the mouth of No. 2, but just a little above it, I think, if my recollection is right. The trap isn't in there through the fall season. After the high water in the spring is over, they put the trap in. The trap extends about 600 feet, so the engineers mark it at 600 feet, and when you pass this trap, you are about 200 feet off the trap on the range.

Q. When you pass that trap, you are about 200 feet off the range?

A. About 200 feet off the trap on the range.

Q. About 200 feet?

A. Yes, sir; as near as I can guess at it; of course, I never measured it.

Q. Now, Captain, you spoke about that current being a fairly strong current. If driftwood, or any-

thing of that character were in the—coming down the Columbia River there by Coffee Island, and passed through these waters, in what direction does it go after it passes the bluff there?

A. Nearly always down the Clifton Channel.

Q. Down the Clifton Channel?

A. Yes, sir.

Q. How long have you been on the Kern, Captain, as master, towing these barges?

A. I think I have been there five seasons. I think it is. I wouldn't say positive, either four or five, but I think it is five; five seasons.

Q. You know the steamer Samson?

A. Yes, sir.

Q. Do you know its tow?

A. Yes, sir.

Q. What is the relative speed in towing of the steamer Samson, and the steamer Kern?

A. The Samson tows the faster of the two.

Q. About how much does the Samson gain in a mile? How much times does it gain per mile, would you say?

A. That would be a little hard to say, just how much she would gain per mile. I frequently have passed her about Waterford at Oak Point, as she was making up her tow, and I would probably get a half or three-quarters of a mile ahead of her before she would get her tow made up, and on those occasions, if we towed as we usually did, she would beat us to Fort Stevens about an hour and a half, probably.

From an hour and a half, to an hour and three-quarters. That would be about—well, if it was Oak Point, would be about fifty miles from there to Fort Stevens, and she would probably beat us in that distance about on hour and a half to an hour and three quarters.

Q. Beat you in that distance an hour and a half to an hour and three quarters?

A. Yes, sir.

Q. Were you on duty that night when you passed the Samson?

A. Yes, sir.

Q. The night of the 21st of July?

A. Yes, sir.

Q. What was the Samson doing when you passed her?

A. Well, I met the Samson in the river. I had passed the Hercules; she was astern of her, and soon after I passed the Samson, I heard them exchange whistles, to—they had met and was going to exchange their tow then. I met the Samson coming up, understand, and the Hercules was coming down behind me. I was ahead of her.

Q. Now, did you ever tow these barges on the Samson?

A. Yes, sir.

Q. About how long does it take to change tows?

A. Well, an average change, I think, would be ten minutes, I have changed in less time than that, and some times it has taken me longer.

Q. An average, you think of about ten minutes?

A. I think an average change, it would be about ten minutes.

Q. Did you see the Samson afterwards?

A. I don't remember that I did. I might have seen her just before I laid down. I wouldn't say positive that I did. As a usual thing when the pilot comes in the pilot house, is after I see the Samson, and I usually tell him where. I nearly always meet her before I go off watch.

Q. But you don't remember whether you passed her that night?

A. I don't remember of having looked back to where I could see her or not, and how far.

Q. Do you remember passing the Henderson and her tow that night?

A. Well, I heard the passing whistle, and I inquired of the pilot who it was, and he said the Henderson with the oil barge.

Q. You were not on duty at that time?

A. I was not on watch, no.

Q. Captain, in your experience, do you find it more difficult, or less difficult to judge your distances from shore, if there is a bluff than is there is an open shore?

A. It is more difficult to tell the distance on the high side than it is on the low side at all times.

Q. What kind of a bluff is there on the Oregon side at Bugby Hole?

A. Very high bluff, very straight up and down.

Q. Now, I call your attention, Captain, to Li-

bellant's Exhibit 1. Captain Sullivan, in his examination testifies that when he first saw the Samson, he was at a point marked "X" over which is written "Oil Barge." See that point?

A. Yes, sir.

Q. And that the Samson at that time was somewhere down here, at a point which he identifies as a point marked "O", near which is the letter "B". Do you see that?

A. Yes, sir.

Q. He testifies that at that time both lights of the Samson were in full view. He testifies that just after he sighted the Samson, he changed his course, running on one or the other of these two lines, one in pencil, and the other in blue pencil, to a point near where you see the cross marked, which I point out to you—on that course.

A. Yes, sir.

Q. And that there he gave a whistle to the Samson. He says that at that time, as nearly as he could locate the Samson, she was at the point which I now point out to you, marked "X" here, opposite to which is written "Samson when first signal was given." Now, suppose the Henderson and her barge were running either of those two lines, and the Samson was running the line from the point O to the point which I have indicated as the point where she was at the first signal, what lights of the Henderson and her barge would be visible to the Samson?

A. The red light, if they were properly fixed.

Q. Would the green light be visible at all?

A. I don't think so. If the lights were properly fixed, they shouldn't show across the bow.

Q. Now, what lights of the Samson would be visible from the Henderson at that point?

A. Only the green light should be visible; that is, aside from her mast lights.

Q. Now, he testifies that after he gave the first signal, he ran down on this course, indicated there by the pencil mark, which you see there, the blue pencil mark you see there, to a point which I now show you, which is marked "second signal." See the point?

A. Yes, sir.

Q. And at that time the Samson had gotten to a point marked "Samson second signal," that point there? Do you see what I mean?

A. Yes, sir.

Q. Now, if that were the case, what lights would be visible from the Henderson on the Samson, while the Samson was going from the place where the first whistle was blown, to the place where the second whistle was blown? If the second whistle was blown at the point which I have indicated?

A. What lights on the Samson?

Q. Would be visible to the Henderson.

A. Well, both her lights should be visible.

Q. The Henderson is running this way, you see.

A. Yes, sir; and the Samson running down this way.

Q. The Samson running from this point to this

point.

A. And the Henderson in here, then she shouldn't see anything but the green light of the Samson.

Q. I say, what lights on the Henderson would be visible from the Samson?

A. Red light.

Q. Red light only?

A. Yes, sir.

Q. Now, if you change that point, Captain Cope-land; I call your attention now to this diagram. If you change that point, and say that the Samson at the time the second whistle was blown was at the point which I now indicate to you, which is marked "corrected location of Samson," the point here, you see.

A. Yes, sir.

Q. What lights would be visible?

A. If she were running straight from here to that point?

Q. Yes.

A. Her green lights would be visible.

Q. The Samson's?

A. Samson's green light.

Q. And what lights visible from the Henderson?

A. Red light.

Q. And if the point where the Henderson blew her second whistle was also changed, and put down to the point which I now show you there marked "corrected location of the oil barge," you see?

A. Yes, sir.

Q. What lights would then be visible in that case?

A. If she should run from here to there?

Q. Instead of that point, should run to that point.

A. Then her red light would be visible also.

Q. And what lights from the Samson would be visible?

A. The green lights on the Samson.

Q. Now, if you again change the position of the Samson, and draw this course, and the Henderson's course remains to the point which I have just pointed out to you as corrected location of the Henderson—you see here?

A. Yes.

Q. And the Samson's "second corrected location," the point which I now show you, what lights would be visible on the Henderson from the Samson?

A. On the Henderson from the Samson, her red lights would be visible at that point.

Q. And what lights of the Samson?

A. Her green light.

Q. Now, Captain, running from any one of those three points—any one of those two points, the location of the Henderson at the time of the second whistle, to the point of collision, which I now show you, marked "collision," the point here—see where I mean?

A. Yes.

Q. And running from any one of those three points which are marked "location of the Samson at the time of the second whistle," what lights would be visible on the Henderson from the Samson?

A. I don't think that anything but her—I don't

think anything but her red light should be visible, if they were properly fixed.

Q. And how about the Samson?

A. Her green light would show on the Samson.

Q. And no other?

A. I don't think.

Q. I want to know which light of the Henderson would be visible?

A. The red light.

Q. And which light on the Samson would be visible?

A. The green light.

Q. Captain, look at this again. That is the same map. If the Samson rounded the point of Puget Island within 400 feet, or even within 800 feet of the point of the island, and sailed from there to a point marked "Q", right here which I point out to you, which is the point which Captain Jordan says was the point of collision, and the Henderson went from the point which I show you as the point where she was when the Samson was first seen, to that same point, and they collided at that point, what lights would be visible between those two boats—the Henderson running this way and the Samson this way?

A. The Henderson should see both the Samson's lights, both her side lights, and the Samson should see both the Henderson's side lights.

Q. Captain, did you see those barges 9 and 27, which were towed by the Henderson to Fort Stevens on the night of July 21-22? They were the port barge

and the middle barge. Did you see them on the morning of July 22nd?

A. Yes, sir.

Q. Some time July 22nd. What time did you see them?

A. Well, I think about nine or half past, in the morning.

Q. Where did you see them?

A. Just above Astoria, where I met the Samson.

Q. And what did you see on them at that time?

A. Well, I noticed on the port bow of the port barge, where the nosing was turned back or broken up; that there was some black paint on it there, and I saw on the middle barge, on the port bow of the middle barge, a hole.

Q. How was that hole covered, do you remember?

A. If, I remember correctly, they had a piece of canvas over it.

Q. Did you ever tow vessels, oil barges?

A. I don't think I ever towed an oil barge, not to my recollection.

Q. Did you ever tow vessels of like length, 280 feet length, 45 feet beam, and 20½ feet draft?

A. I have towed vessels that draft. I wouldn't say their length or breadth. I have towed vessels drawing all the way from 19 to 23 feet.

Q. And with what steamer were you towing those vessels?

A. Well, I was on the Oklahoma, for quite awhile as mate. We were towing vessels continuously at

that time, and for a time on the D. B. Baker, and for a time on the Emma Hayward. I was master of the Emma Hayward at the time. Also I was mate on her. Also with the Fannie, I towed the steamer Fannie, belonging to the North Pacific Lumber Company.

Q. With the Fannie?

A. Yes, sir.

Q. The same as the Diamond O?

A. Yes, sir, she is now called the Diamond O.

Q. Did you ever stop with any of your vessels which you were towing?

A. Yes, sir.

Q. Captain, from your experience in towing vessels of that character, say heavy draft vessels, if the steamer was stopped, and there was slack water, how far would such a vessel drift with that power where she was going, say, between three and four miles an hour?

A. Well, in slack water, I think she would drift fully a mile, if there was no obstruction.

Mr. SNOW: I move to strike out that answer of the witness, because it is not in accordance with the facts in this case. He is drifting in slack water.

COURT: Objection overruled. That is simply a circumstance going in connection with other circumstances; not controlling, but goes to the weight of the evidence, not its admissibility.

Q. Now, Captain, it is in evidence here that the Henderson was lashed to the oil barge by a head line, which was seven inch Manila, with seven-eighths

inch metallic pendant—you know what that means, do you?

A. Yes, sir.

Q. Has a head line. That she had two breast lines which were three-quarter inch metallic lines; that she had two stern lines, which were just about the same as the head line; and that she had a tow line which was a one inch metallic line. You understand what those lines mean, do you?

A. Yes, sir.

Q. Now, it is also in evidence that all those lines were broken when the Henderson struck the barges, the rock barges towed by the Samson. It is in evidence also, that the Henderson—it is claimed that the Henderson was going three miles an hour, and it is also claimed she was going as much as four miles an hour or more. Now, assuming that she was only going about three miles an hour, and supposing she was going only about three miles an hour, to what extent would the breaking of those lines check the momentum of the oil barge, in your judgment?

A. Well, it would be pretty hard to tell just how much it would retard her motion. Of course, it would necessarily retard it some, but no very great amount.

Q. Now, it is also in evidence, Captain, that before the Henderson broke loose from her tow, the oil barge, that she backed for not more than one minute, full speed astern. To what extent would the backing of the Henderson full speed astern, retard the momen-

tum of the oil barge, in your judgment, when she is broken loose in the manner I have described?

A. Well, I shouldn't say it would retard her speed more than one-eighth.

Q. Of her speed?

A. Yes, sir.

Q. It is also in evidence, Captain, that there was a strong ebb tide that night. I don't know whether an ebb tide set in before you went to bed or not.

A. No, it was still flooding when I went to bed.

Q. The evidence is was a tide of between eight and nine feet that night, and that this was about 1:40 o'clock in the morning. The ebb tide, I believe—the flood tide was about between 10:30 and 11, is my recollection. This was about 1:40 in the morning. Now, if there were such an ebb tide, and the lines were broken in the manner in which I have described, and the Henderson had been backing for not to exceed one minute before she was broken loose from the oil barge, to what extent, in your judgment, would that retard or diminish the momentum of the oil barge?

A. Well, as I said before, the breaking of the lines would retard the movement of the vessel some, to some extent, but no very great extent, and the backing of the Henderson might possibly retard her speed one-eighth. Of course, it is pretty hard to say just how much those lines would retard her speed, because, apparently, they were all broken at once. Wouldn't retard much more than to just part one line, probably, of the same thickness, if all broken at once.

Q. And the tide, take into consideration the tide?

A. Yes, sir.

Q. To what extent, in your judgment, would that retard the momentum of the oil barge, in drifting?

A. If she was going three miles an hour, when this accident happened, I think she would be going fully two miles and seven-tighths afterwards.

Q. Now, Captain, if the accident took place between these two sloughs, that you have defined there, and at a distance of between four hundred and eight hundred feet from the Puget Island shore, in what direction would the oil barge drift if she were put hard aport at the time or just before the accident occurred?

A. She would have a tendency to drift to the Oregon shore.

Q. Now, do you know where some piling over there, under that bluff?

A. Yes, I know where there is an old trap there.

Q. Commonly called Joe's Ferry, I believe it is.

A. I don't know what they call it.

Q. Joe's Fishery. Do you know where the piling is there?

A. Yes, sir.

Q. If the oil barge was broken loose, in the manner I have described, and under the circumstances as I have described, where would she drift in reference to that trap, in your judgment?

A. If she were broke loose at the point where Captain Sullivan says, or where Captain Jordan says?

Q. I say, if the accident occurred—

A. Oh, between these sloughs.

Q. (Continuing) Between these two sloughs, and between four and eight hundred feet from shore.

A. The rudder would have a tendency to draw her in toward the point of the bluff, and near the old trap. The rudder would have a tendency to shoot her across that way.

Q. Toward that trap?

A. Yes, sir.

Q. There is some evidence, also, Captain, that at or just after the accident occurred the oil barge let go her anchors. She had two patent anchors. Do you know what patent anchors are?

A. Yes, sir.

Q. The evidence further shows that the bottom of the river there is of sand and gravel, and that there was about—I think it was 40 fathoms, but I am not sure.

COURT: My recollection is the witness who gave the deposition said 40 fathoms of chain.

Q. Yes, about 40 fathoms of chain on these barges; at the time that she came up on her anchor, at the time she was anchored and settled. How far would that barge drift under those circumstances?

A. How far?

Q. Yes, how far would she drift, under those circumstances?

A. Well, the direction that she drifted there, and the direction she did drift then, the bottom was slanting off, she might drift 1500 feet, unless that anchor

was brought up on something to stop her.

Q. 1500 feet?

A. Yes, sir; understand the water was still getting deeper; that is the reason why I say the bottom was dropping off all the time.

Cross Examination.

Questions by Mr. C. E. S. WOOD:

Captain, where did you understand by Captain Jordan's story, the point of collision was, with reference to the slough on Puget Island?

A. I understood, from the mark on the map, where he was marked where the collision took place was below the larger one of those two sloughs.

Q. And with reference to Ostervolt's seining ground.

A. I think it would be just above the head of Ostervolt's seining ground, or about there somewhere.

Q. About the head of it?

A. Yes, about—I think he claimed—of course, his seine is higher up than that. He gets clear above the slough with the seine.

Q. Now, across the river to Joe's Fishery. How is that with relation to this point of collision, as you understand it? Is it up the river, or down the river?

A. What?

Q. The old trap you spoke of, the piling.

A. It is up the river from where Jordan has his point of collision marked.

Q. About how far up the river?

A. Well, I couldn't say just how far up the river

it is. I never have made any measurements down there with anything. I don't know just how far up the river it is.

Q. Why do you locate that as the probable place where the inertia of the oil barge would have carried her without her rudder to port? Why did you locate that particular spot?

A. I didn't locate any particular spot, but I said it would carry her about a thousand or fifteen hundred feet, didn't I?

Q. I understood you to say you thought would fetch up in the neighborhood of this old piling.

A. No, I didn't say anything of the kind. I said I thought her momentum would carry her about a thousand or fifteen hundred feet.

Q. Well, against the current, with the helm aport. Where, on the other side, with reference to this old piling, do you think she would fetch up?

A. Well of course that would depend a good deal. The current would probably be helping her across there too, and of course, as I said before, I don't know how these oil barges steer. She might answer her helm very quickly, and turn immediately across the river, or she might run further up the river.

Q. You couldn't have any idea, accurately of where she would fetch up?

A. No, not exactly, I couldn't. I don't think anybody could. I don't think if you would ask the pilot where she was going that night, he could have told you.

Q. Well, if the point of collision was further down stream than Jordan states it, what relation would that have on her probable point of bringing up??

A. Well, she would have probably have brought up over in the Clifton Channel somewhere.

Q. And if upstream—

A. (Interrupting) She might possibly, if she had run long enough on hard aport helm, she might even have turned and went down towards Tenas Illihee Island.

Q. If the point of collision had been further upstream, she would have gone correspondingly further up towards Rugby Hole?

A. Yes, sir.

Q. That is, would have continued upstream, or up diagonally?

A. Yes, sir.

Q. From the point of collision?

A. Yes.

Q. Do I understand you, it makes no difference whether the lines were all parted together, or one after another?

A. It does make a difference whether all parted together, or one parted now and a few moments after another one parted, if it holds tight all the time. If it holds taut, and pulling on the vessel, it would retard her speed more.

Q. If they were broken practically simultaneously, but in rapid succession, first the head line, then the breast lines, then the tow line and stern lines, going

right snap one after the other, as the pressure came down on them, was put on them, what effect would that have on retarding her?

A. Well, it would retard her speed some.

Q. Would it retard it any more than if they all parted simultaneously?

A. I think likely it would, if they held long enough. Of course I suppose, if they had lines enough there, and held on them long enough, they could have stopped the vessel entirely, if they hadn't brought her up, as we say, on a round turn. If they hadn't brought her up suddenly, so the lines would pull apart.

Q. As a matter of fact and physics, it looks to me this way: any force exerted on an object will have the opposite effect against the inertia of the object, whether exerted instantaneously, or not. For example, if, instead of these lines, there had been a cotton string, there wouldn't have been practically any retarding of the oil vessel, would there?

A. No, sir.

Q. Don't you think there is a difference between a cotton string and a lot of steel cables and seven inch hawsers?

A. Yes, sir; I think it is.

Q. So they must have some effect when a force is exerted sufficient to part them?

A. Yes.

Q. I don't understand what you mean just now in saying in making her diagonal, the adverse current

against her would help her.

A. I said it would help her across the river; the current being on one side of her wholly, it would continue to shove her across the river.

Q. It would have a greater tendency, also, to shove her down the river, more of her port side being presented.

A. It would have a tendency to stop her, maybe, a little quicker; I don't think would have a tendency to shove her much down the river until she was stopped entirely. Of course, if coming through here diagonally, she would naturally sheer a little more.

Q. In talking of these currents, you said, as I understood you, up around that turn of Puget Island, which we have been calling the point—it is not the real upper point of the island, but the point the steamers round there by Bugby Hole—you know what I mean?

A. Yes, sir.

Q. Did I understand you that from that point, the current sets over to the Oregon shore?

A. Yes, sir, I think you did.

Q. Now, by that, you don't mean to be understood as saying that it sets right against the Oregon shore, so that a piece of wood turned adrift there, would be thrown up on the Oregon shore, as the sea casts up driftwood, do you?

A. Oh, no, no.

Q. There is a strong channel, and a deep channel running between these two shores. The curve of

Bugby Hole and the curve of Puget Island, isn't there?

A. Yes, sir.

Q. And where is the thread of that current?

A. Do you mean where the stronger part of the current is?

Q. Yes; what they call the thread, the line.

A. The stronger part of the current is toward the Oregon shore from the point of the island. Anything turned loose above the point of the island, will go down toward the Oregon shore and down Clifton Channel.

Q. Could you give me an idea of about where what I call the thread of it is, from the Oregon shore, about how far out?

A. Well, I should say 600 feet, probably from the island side.

Q. How deep is the Clifton Channel?

A. Well, it varies in depth, from where it turns off there to go down past Clifton. There is about 18 feet of water from there down, probably, five miles. Then it shoals up. There is a number of sloughs down there.

Q. What is it right at its mouth, at Prairie Channel, where it enters the Columbia, the upper end?

A. I suppose you get into Prairie Channel proper, that right at the start you would find, probably, 20 feet there; would probably shoal up to 18 feet, when you get, well, less than half way to Clifton.

Q. That is the full depth?

A. That would be the depth.

Q. That is the full depth?

A. Yes, I think so.

Q. The reason I ask, I understood some people here to say that the depth was nine feet. Would it be that at low water?

A. No, I don't think there is a time when it ever gets so low as nine feet. I don't think there is a time when it gets that shallow. That is the main channel at the Clifton side.

Q. What is the channel of the main river at this point?

A. Well, it varies from—I think it is about, on the average, about 80 feet there, Bugby Hole there. That is, right through the Hole, where the ships usually run.

Q. And up tows—towing upstream, use the Clifton Channel, and Cathlamet Channel, to get out of the great current of the main river, don't they?

A. Well, log rafts use that portion of—not the Clifton Channel, but around the island of the Clifton Channel, which would be over out of the swift water.

Q. Yes, to get away from the swift water. Now, I don't understand why that main volume of the Columbia River, coming down the main channel, 80 feet in depth—how anything which was turned into the thread of the current, up at Bugby Hole would be diverted off into Clifton Channel, unless it got well over to the Clifton Channel side.

A. Well, Mr. Wood, you understand that only

through Bugby is the water so deep. Below Bugby Hole, the water shoals up; the water shoals up, to I don't think more than—well, at low water, I don't think more than 30 feet of water down below these traps; below—where the Clifton Channel starts off.

Q. But the main channel of the Columbia River, right between Tenas Illihee Island and Puget Island is still 50 or 60 feet deep, isn't it?

A. I don't think so.

Q. How deep is it?

A. I don't think over 30 feet. I have seen steamers stuck there several times, on what they call the bar. I have seen two steamers stuck in one night, just below where this trap is I speak of. That would be just below Slough No. 2 as marked on the chart.

Q. That would make then, the main channel of the Columbia River not very different from Clifton Channel in depth?

A. Right at that point, yes.

Q. Is that so?

A. Well, at that point. Of course, has been some dredging done there since these vessels stopped, and just how deep they dredged, I don't know, but I don't think they dredged it over 30 feet.

Q. There are a great many fishermen drifting their fish nets from this point of Puget Island down the river to below the point of Puget Island, aren't there?

A. Yes, sir, not so high up, however, as Clifton Channel.

Q. What?

A. They don't start so high up as Clifton Channel. They start below there. They lay out their nets below Clifton Channel.

Q. Don't they start up at that point of Puget Island?

A. No, sir, not to drift down the main channel.

Q. There are fishermen that are always in the way there, we have been talking about?

A. They lay their nets out on Coffee Island, drift down to that place and pick up; sometimes drift into Bugby Hole before they get their nets picked up.

Q. And don't commence again until when?

A. Until they get below Clifton Channel, to about abreast this trap.

Q. Now, doesn't Ostervolt fish right in this very point that we are talking about, between the point and Tenas Illihee Island?

A. That is seine only.

Q. Doesn't use drift nets?

A. No, sir; I never saw him use a drift net there.

Q. Well, as a matter of fact these drift nets are used at such places where they get a straight drift on a straight current down the river, and are not sucked out into the shore, or into side channels, or sloughs. Isn't that so?

A. Yes, sir.

Q. So that wherever they are used, would be the main current, wouldn't it?

A. Sometimes they use them over the sands. They

don't usually drift right in the channel. At that point, they sometimes get into the channel, and get across the ranges with their nets.

Q. Have you any idea how deep those nets work?

A. I don't know, Judge, just how deep they were.

Q. We will put that in. Now, you say about the drift that gets into the thread of the stream going down Clifton Channel. Wouldn't that look as if the strongest current was down Clifton Channel? Let's see if we understand each other. I can understand an object being well close into the Oregon shore, and on the Oregon side of the thread of the current, getting into the influence of Clifton Channel, but I can't understand an object being in the thread of the Columbia River, leaving that main thread, and going off into Clifton Channel, which would look as if the Clifton Channel had a more powerful suction than the main river.

A. Well, I don't know. It might look that way. If you will place—I will refer you to an instance I remember very well. I think it occurred in the winter of 1893, when the Cowlitz boom broke. Several million feet of logs were thrown out into the Columbia River by the freshet in the Cowlitz River, and at the same time a small freshet in the Columbia River. I was at that time employed by the steamer Fannie, belonging to the North Pacific Lumber Company, and the Fannie was employed to gather those logs up. And the majority of the logs that went down the Oregon side of Puget Island, went down Clifton Channel,

because we got no logs on the Washington side of Tenas Illihee, but we gathered all up the other side.

Q. That was in the highest June flood freshet?

A. No, sir, that was in the winter time.

Q. Must have been in the time of the freshet.

A. Was time of freshet in the Cowlitz River. Of course the Columbia River was up besides, a little bit.

Q. That was 1893?

A. Winter of 1893.

Q. Now, the whole river channel has been altered down there since then, both by dredging and the natural course?

A. I don't know as it has. The ship's channel is the same as then. It is the same course practically.

Q. Then your idea about it would be that the Clifton Channel would have a stronger suction than the main river?

A. It appears so from the fact that the drift and logs go down that side.

Q. Yes. Have you observed it recently?

A. Well, yes, to some extent.

Q. When?

A. This summer and last summer, and all the years I have been towing down there.

Q. When were the Hunting Island Range lights established?

A. I don't just remember when they were established. I think three or four, four or five years ago, possibly. I wouldn't say positively when they were

established, but that has been recently, that is, what I mean by recently, in the last four or five years, I think, established.

Q. I think they were established in 1890, but I don't know that. Does that strike you about right?

A. I don't know, but what might be along that time. I wouldn't say positively.

Q. Have been some changes since then, but established then.

A. They were established some time ago. I don't just remember when, wouldn't say.

Q. Now, then, do you mean that this drift, this current, applies to surface drift like logs, or applies to the deep current of the river?

A. Well, I suppose if it applies to the surface drift, it would apply to deep draft drift also. I notice in towing these barges down there it will take you off to one side pretty rapidly.

Q. You think the surface drift indicates the deeper current, do you?

A. It looks as if it might, when it takes a boat off that way. It has taken my boat off that way different times, coming down.

Q. You haven't noticed it lately, that current, have you, within a week or so?

A. No, not within a week or so. I haven't been down there.

Q. The reason I ask you, I was down there a couple of weeks ago, and the whole pathway of the drift was visible to the eye coming right down the main

river, not Clifton Channel.

A. Probably high water slack when you were there.

Q. I don't know about that. They told me similar conditions to that of the collision.

A. If I remember correctly, at the time of the collision there was a pretty heavy current through that portion of the river.

Q. About half ebb; about a nine foot tide and half ebb?

A. And also a portion of the June Freshet. In July, the June freshet would still be to a great extent.

Q. What kind of a freshet was that of July, 1911?

A. I don't think the water—as well as I remember 1911, the water was 18 feet in Portland. Am I not correct in that?

Q. I don't know.

A. I think, if I remember correctly, it was about 18 feet, 18 foot rise of water. It might have been more.

Q. Was it an early or a late freshet?

A. Well, I don't know; about the usual freshet, as well as I remember.

Q. This was the end of its season, wasn't it, the end of the freshet?

A. Getting towards the end. The river doesn't go down to the normal condition until usually in August. I remember of having towed that year to the quarry until September, and the water got too low in

September, I think the sixth day of September, I made my last trip to the quarry.

Q. What is the draft of your boat?

A. She draws at the present time, about  $12\frac{1}{2}$  feet.

Q. You are still with the Columbia Contract Company?

A. Yes, sir.

Q. Now, about these lights a minute. Will you hold that end of Libellant's Exhibit 2. If this is the Samson coming around that point of Puget Island, or on the course between the points K and L, and down here by F was the Henderson and the oil barge, coming up on the range light,—getting that now as a general course, this is not intended to be a charted course, or a surveyed course—merely a rough diagram. The Samson coming down here between this point would see both lights of the Henderson and the oil barge treated as one vessel, wouldn't she?

A. From here to here?

Q. Coming to point L.

A. Coming around, she might see them as she came around there. When she got partially around, she would probably see both of the Henderson's lights.

Q. Then, if the Henderson made a more or less sudden and sharp deflection, with the port helm going off to starboard, that would shut out the green light from the Samson here?

A. At that time, yes.

Q. And then if, by this time, the Samson had got

down here at L, or somewhere in this neighborhood, and the Henderson and the Oil Barge were coming from G—between G and 1, in this direction, then they would each see each other's two lights, shouldn't they?

A. They should, if they were properly fixed.

Witness excused.

Mr. MINOR: I desire at this time, your Honor, to offer in evidence the navigation rules—

Mr. SNOW: Why not put all the rules in evidence?

Mr. MINOR (Continuing): Article III Page 21 of these rules.

Mr. C. E. S. WOOD: Aren't they the Standard United States Rules?

Mr. MINOR: I don't think the rules are. If they are, it doesn't make any difference. If not, of course I have to offer in evidence. I want to offer this part of Article II, (E):

"A steam vessel when towing, shall, instead of the signals prescribed in subdivision (a) of this article, at intervals of not more than one minute, sound three blasts in succession"—this is in regard to blasts, but the part I want to read is a little further down.

(Continuing) "Sound three blasts in succession, namely, one prolonged blast, followed by two short blasts. A vessel towed may give this signal, and she shall not give any other."

I also wish to offer in evidence, your Honor, the testimony of Mr. Peterson—there is a stipulation be-

tween Mr. Wood and myself in regard to this testimony. This man's name, your Honor, is John Peterson, and his testimony is in this report of the testimony, taken on the trial of Charles Jordan, Pages 900 to 960. And it is stipulated between Mr. Wood and myself, that we may read all, or so much of this as we wish, and that all or so much of this may be introduced in evidence as the several parties may desire. Mr. Snow did not sign this stipulation.

Mr. SNOW: I want to say that I am not signing the stipulation under which this offer is made. The evidence, therefore, of Peterson, as to me is hearsay and incompetent, and I object on behalf of the Standard Oil Company.

COURT: Then it is only to be considered as affecting the libellant?

Mr. MINOR: Yes, your Honor.

Mr. SNOW: That is as between the libellant and the respondent the Columbia Contract Company, for whatever it may speak. It is not evidence against me, the Standard Oil Company. (See page 951.)

Mr. MINOR: Now, if your Honor please, with this, with the exception of such evidence as may be taken in regard to the damage, which we of course want to take hereafter, we don't care to take any further evidence on the question of liability, but with regard to the damage, Mr. Wood reserves the question as to the amount of damages, which, I understand, your Honor will refer.

Mr. SNOW: I would like to have Captain Jordan

recalled for recross examination.

CAPTAIN CHARLES JORDAN, recalled for recross examination.

Questions by Mr. SNOW:

Captain Jordan, I have asked the stenographer to read some portion of your testimony that you gave on direct examination, in answer to Mr. Minor. You listen now please, while that is being read, because I want to examine you about it.

(Testimony read as follows):

"Q. How far were you from the Henderson and her tow at the time they gave the first passing whistle? A. I should think in the neighborhood of half a mile, approximately. Q. How quickly did you answer? A. Immediately. Q. Now, what answer did you give? A. One long whistle, not long blast, but long enough to be heard at night. Q. How far were you from the Henderson and her tow at the time you received the second signal? A. I don't think I was more than about four or five hundred feet away from them. Q. And did you answer that signal? A. Yes, sir, immediately. Q. What answer did you give to it? A. One whistle. Q. Now, Captain, at that time, what lights could you see of the Henderson and her tow? A. At the second whistle, I could see the red and green light and masthead light and bright light shining out of her gangway doors. Both gangway doors were open forward, made it awful light around there, and a small white light on her stem; lights along her side, they showed out through the side of her rows of

windows and doors. Q. At that time, I understand you to say her helm was hard aport. A. Hard over. Q. What did you do after that second whistle was given? A. As soon as I let go the whistle string, and saw the wheel was hard over, I gave four bells to back, wide open, and rang both electric push buttons to call the crew out of the hold. The sailors and firemen sleep forward the forecastle, and the oilers, mate and second engineer sleep aft in the aft forecastle, and electric call bells in both holds to wake them up in case of emergency. Q. And how long, in your judgment, after that second whistle was given, before the two vessels came together? A. Very few seconds. In fact, I made a mistake there. I was backing before I blew the second whistle. I had given the bells to back, before the second whistle was blown."

Q. Now, Captain Jordan, how long did you back your vessel, the Samson, before the second whistle was blown?

A. Well, as I testified before, I am not positive whether I backed before the whistle, or immediately afterwards.

Q. You testified here distinctly that you were backing your vessel; you said you had made a mistake, and you backed your vessel before the second whistle was blown. Now, how long had you been backing before that second whistle was blown?

A. Very few seconds either way, whether before or after.

Q. Why were you backing her at that time?

A. Because they were getting pretty close together, and I thought it would help me to clear by backing.

Q. Did you anticipate then a collision was going to take place, when you started to back her?

A. I don't know as I understand your question.

Q. Did you anticipate, when you started to back your vessel, that a collision was imminent between you and the Henderson?

A. Yes, sir; at the time the second whistle was blown—

Q. (Interrupting) At the time you backed your vessel. You answer my question as I give it to you, sir. At the time you started to back that vessel, were you apprehensive a collision was going to take place between your two vessels?

A. Yes. Thought a chance for a collision at that time.

Q. Why didn't you then blow the danger signals?

A. As I said before, I had no time. I was looking out for my crew to get them out of the forecastle to give them a chance.

Q. And yet you had time to answer the Henderson's second whistle, which indicated she was going to go to one side, and you the other side of the river?

A. The danger at that time—would have made no difference whether blown or not.

Q. We will decide that question later. Your tow, as a matter of fact, was not under control then, was it? You were having hard work to steer those barges,

were you not?

A. Well, I don't know as I had hard work, no, sir.

Q. Well, weren't they harder to steer that night, with that current and with that tide?

A. Under ordinary conditions, they were not, no, sir.

Q. Were they that night?

A. No, sir.

Q. Then they were under easy control, were they?

A. As long as I had the channel without nothing in the way—or as long as there was nothing in the way, they were under perfect control, yes.

Q. As long as nothing was in the way, they were under perfect control?

A. Yes, sir.

Q. But there was a vessel coming towards you, you could see both lights? When did you give your signal to back your vessel?

A. About the time I got the second whistle from the Henderson.

Q. Just a moment. "About the time" means about how long before you got the second whistle, did you give your signal to back your engines and back your vessel?

A. How long before I got the whistle?

Q. Before you got the second whistle.

A. How long did I back before I got the whistle?

Q. No, sir. When did you give the signal to back your vessel? You say in your testimony I just quoted to you by the stenographer, you say you were back-

ing that vessel before the second whistle was received. When did you give the signal to your engine room to back that vessel?

A. Well, as I testified before, I gave the signal either just before, or immediately after the whistle was given. I couldn't say positively which.

Q. You say you were backing her when that second whistle was blown by the Henderson. Now, when did you give the signal to back that vessel? How long before?

A. Just a very few seconds, either one way or the other. Either before or after.

Q. You couldn't have given the signal to back the vessel after you heard the second whistle if you were backing when you gave the second whistle?

A. I think you will find when I testified before I gave the signal either just before or after the bells.

Q. What do you say now? Were you backing before the second whistle was blown?

A. As I testified before, I am not positive. It was either just before or just after I got the second whistle from the Henderson.

Q. If it was just before you were backing—if it was just before the second whistle that you were backing, then you gave the signal to back, the signal to your engine room to back, before the second whistle. Is that a fact?

A. I wouldn't testify, for as I have told you before, I am not positive. It was either just before the second whistle was given, or just afterwards. Only

make a few seconds difference, anyhow.

Q. You mean to say, if you were backing before the second whistle was blown, you gave the signal to back after the second whistle was blown?

Mr. MINOR: He didn't say that.

Q. I asked whether you say that?

A. I tried to explain that to you; only a few seconds difference one way or the other, whether just before or just afterwards. It would only make a few seconds' difference, not more than ten seconds—no, not more than ten—wouldn't be five seconds.

Q. I read it again: "And how long, in your judgment, after that second whistle was given before the two vessels came together? A. Very few seconds. In fact, I made a mistake there. I was backing before I blew the second whistle. I had given the bells to back before the second whistle was blown." Now, how long before the second whistle was blown, did you give the bells to back?

A. Well, it wouldn't be more than two seconds; just quick enough to turn the bells in, if it was given before.

A. Well, you said there it was given before, didn't you?

A. I probably did, but I tell you you will find another place where I said I was not positive whether given before or afterwards.

Q. Now, then, you can handle your tow a little better, can you, on backing instead of going forward?

A. No, sir; that is the reason I let her go ahead,

because I can handle her better going ahead than I can backing.

Q. Then you were not backing when you got the second whistle, were you?

A. As I said before, I am not positive.

Witness excused.

Claimant rests.

CAPTAIN MICHAEL MORAN, a witness called by the libellant in rebuttal, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. C. E. S. WOOD:

Q. Captain Moran, what is your business?

A. Master mariner.

Q. Where do you live?

A. Portland.

Q. Are you a member of the Columbia River Pilots' Association?

A. At the present time, yes.

Q. How long have you been a master mariner?

A. About a year.

Q. What experience have you had on the Columbia River?

A. Well, I have been on it now for 20 years, from deck hand to master, and pilot of steam vessels.

Q. Running between what points, principally?

A. Well, anywhere from the lightship to Portland.

Q. How long have you been a pilot?

A. About a year and a half.

Q. And what were you before that?

A. I was master of the tug Samson the last time before I went piloting.

Q. How long were you master of the Samson?

A. I was about two and a half master of her, and I was the biggest part of two seasons pilot on her.

Q. What seasons were those?

A. 1909 and 1910, I was pilot on her. The latter part of 1910, I went master of her; on the 15th of October, until the season wound up.

Q. Ever handle her?

A. Yes, sir.

Q. How does she steer?

A. She steers very good. She is a pretty good boat to handle.

Q. Ever handle her with stone barges?

A. I did, many a time.

Q. With three stone barges?

A. Yes, sir.

Q. Is that the customary way in which she takes her tows?

A. Generally in three.

Q. How does she handle with three stone barges?

A. She handles very well.

Q. Do you know anything about the power of the Samson?

A. Do I know anything about the power?

Q. Yes, what her power is.

A. Her power, I believe, is supposed to be 800 horsepower, when she was built.

Q. She is a screw propeller?

A. Yes, sir.

Q. Have you ever brought the Samson with a flotilla of loaded stone barges down the Columbia River, past the outside of Coffee Island, and down around Puget Island through Bugby Hole?

A. Yes, sir.

Q. Down past Puget Island?

A. Yes, sir.

Q. How do you steer under those circumstances with a loaded flotilla, coming around the point of Puget Island, which is about opposite Bugby Light, we will say, roughly speaking? How do you steer?

A. I usually come down there,—

Q. I mean on what helm? I don't mean the points of the compass.

A. Under port helm. Where make the turn?

Q. Yes.

A. I would make that turn under a little port helm, make an easy swing.

Q. At the close of that swing, what do you do?

A. What?

Q. At the end of that swing, what do you do?

A. I steady her up, and go right down straight, if nothing—

Q. How do you put your helm to steady her up?

A. Have to put to starboard a little.

Q. So as to check the swing?

A. Yes, sir.

Q. Then how do you go down the river?

A. I generally used to head right down for the

northeast point of Tenas Illihee Island. That brings me right down through the middle of that.

Q. Do you know the Hunting Island Range?

A. Yes, sir.

Q. In what relation to the Hunting Island Range? Do you go down on that range, or not?

A. I go down on that course, right down heading for Tenas Illihee Island, until I get down on Hunting ranges. Then I port again.

Q. And you hold her steady down that straight line between Bugby Hole and Puget Island?

A. Yes, down on that course until I get down on the ranges.

Q. Until you get on the ranges?

A. Yes, providing nothing coming up.

Q. I mean, suppose you are not deflected from your course; then you hold steady down the ranges until below the point of Puget Island?

A. Down below the point of Puget Island. I used to run down until I would open Lower Skamokawa Light pretty well out.

Q. Now, Captain Moran, suppose you are coming down the river at the end of the June freshet—do you remember anything about the June freshet of '91?

A. Yes, sir.

Q. I mean, 1911?

A. Yes, sir.

Q. And what kind of a freshet was it as to magnitude?

A. It was a good average freshet, I guess, just

about the same as it usually does, would be in 1911.

Q. And what stage of the freshet was about July 21st? Was it the close, the middle, or the beginning, or what?

A. I don't know. Was about the end of it, wasn't it?

Q. I don't know.

A. About July 21st? No, that would be—the stage of the river pretty high yet; leave it 18 or 19 feet, I guess, that summer.

Q. Well, say at that stage of the 1911 freshet, July 21st, with a nine foot tide, or thereabouts,  $8\frac{1}{2}$  foot at Astoria, and about half ebb at this particular time, up at this point, going around Puget Island, if the steamer Samson with her three loaded barges, about a thousand ton of rock on each, was going around that point of the island, under a port helm, and anywhere, we will say, from 400 to 800 feet off the shore of Puget Island, towards the middle of the river—from 400 to 800 feet off, and the helm, from being to port to make the swing, is, at the end of the swing, set still further to port, and in a little while is set practically hard aport, so that she runs under the hard aport helm, besides these other previous portings, for five minutes, that distance off the island, and considering the stage of the water, where, in your judgment, as a steersman of the Samson, would it end up?

A. That distance out from the island, and helm hard to port, I should think it would go aground;

she would strike the island.

Q. In what distance? In what length or distance?

A. And keep her engines going?

Q. Yes.

A. I don't think she would be very—not much over a minute; anywhere about a minute, I guess, and keep going full speed ahead; 400 feet is very short.

Q. Would she, with her helm well aport, and say 800 feet off the island, and keeping her helm to port, go ashore on the island in a distance of a quarter of a mile, do you think?

A. Well, I think she would, in 800 feet from shore, I think she would before she would turn around,—she couldn't turn around in 800 feet.

Q. Would she in half a mile?

A. She could turn the barges around in half a mile.

Q. That is, if she had the room?

A. About half a mile.

Q. Have you ever turned her completely around with her barges?

A. Yes, sir.

Q. What time does it take to do it in?

A. It used to take me three minutes to turn around at Fort Stevens. That was her time.

Q. And what distance?

A. Probably a half a mile or a little over from the edge of the sand into the beach. I guess a good half mile; anyway from half a mile to three quarters, I should judge.

Q. So that she would swing through that distance

of half a mile in a circle?

A. Yes, she will do that all right. She will make in half a mile the circle. She did that down there, with full ebb tide, and northeast wind; took her all that time to make that turn down there from the edge of the sands, which I would judge was over half a mile out from the dock. To make the turn and go up in the slip.

Q. I don't mean turn at right angles, across, so would go into the island. I am not talking about that. I am talking about the time to swing completely around in a circle, and get back.

A. I understand that is what you mean.

Q. What time do you say would make that in?

A. Used to make it in three minutes. That was her regular time to make that turn.

Q. Was that with her barges?

A. Yes, sir, with three loaded barges.

Q. Now, do you know anything about the currents in the Columbia River by Bugby Hole?

A. Well, just not any more than a practical steam-boatman going up and down the river does.

Q. How does the current in the Columbia River run from this point we are talking about and Bugby Light, down, to the head, say, of Tenas Illihee Island? What is the course of the current?

A. Well, it runs, I should judge—as far as I know, I think it runs in a pretty fair direction down there until it gets down to Cathlamet Head, or what we call the Old Mill Point. Some separates there, and some

goes down the Prairie Channel, and most goes down the main ship channel, where the deep water is. The current generally follows the deep water.

Q. Have you towed up there?

A. Yes, sir.

Q. And what is your experience as to the suction down—you know Clifton or Prairie Channel, do you?

A. Yes, sir.

Q. What is your experience with these tows and other—any other experience you have had as to the relative strength of the suction down Clifton Channel and down the main channel of the river at half ebb tide?

A. Well, I really never did notice any suction one way or the other. Whenever I swing onto them ranges, that is where would be the suction, all right, if any, in my judgment.

Q. Down the main river?

A. Where the line you come down to get on the ranges, and the line going up the ranges intersects, that is where I should judge would be as much as any suction in the main ship channel, as anywhere. That is, having a tendency to go down Clifton Channel.

Q. I don't mean suction on steamer's bottom.

A. You mean suction to Clifton Channel?

Q. Yes.

A. I didn't notice any in that particular place, where a man swings on these ranges. There may be some, but I never noticed it.

Q. Did you ever handle the Kern and barges?

A. Yes, sir, for a short time.

Q. When, what time was that?

A. That was in 1909, I think.

Q. And what time of the year?

A. That was during the freshet, if I remember rightly.

Q. Did you ever have an experience with the Kern and her barges, so you had to drift through this part of the river we are talking about?

A. Yes, I did one night, one trip going down there.

Q. State what it was.

A. I remember a wheel rope carried away there, and I stopped; carried away right abreast—right up there coming around down that bend, and I backed the Kern up and got her to a stand-still, and just got the crew out to attend to that wheel rope, and I looked out for the vessel, to see she didn't go down one way or the other, and I noticed she drifted on down there.

Q. How far did you drift?

A. I drifted down to the foot of Puget Island, with three barges and the boat.

Q. Which way in relation to the mid channel, did she keep?

A. She seemed to follow the regular channel right down all the way through. I didn't have only just to back her once, I believe, once or twice, just in order to keep—she had headway on her going down, for I backed her and got her to a stand-still. I kept her in the middle and let her lay there. She went down

broad-side, down through the channel.

Q. Do you know anything about those oil barges 91 and 93? Have you ever seen them?

A. Have towed 93 since I have been piloting, twice; handled her twice up the river.

Q. Suppose 93 coming up the river, at half ebb the way we are talking about here, just near Hunt's Mill Point, and the tug Samson with her three barges are coming down; the Samson and her barges coming down the current, and the oil barge with the Henderson going up the current, and they collided there, so that the Henderson is swept loose from the oil barge, and the lines broken, now, of these two flotillas, the Samson and her three rock barges, and the oil barge with the Henderson cut loose from her, which would have the greatest momentum or inertia, and go the furtherest under their own way, with all motive power shut off?

A. I believe the Samson going with the current.

Q. How would the Samson and her barges' way compare with the way of the other, in your opinion—the way of the oil barge?

A. Well, that is a thing I don't know as I would be competent of estimating.

Q. And which would have the greater momentum, in your opinion, the mass of three rock barges and the Samson, or the oil barge after the rock barges had crushed into the Henderson and torn her loose from the oil barge, and then set her adrift—after the Samson and her rock barges had crushed into the Hen-

derson and torn her loose from the oil barge? Now, after that collision, in which the Samson and her rock barges did the damage, which then do you think would have the greater momentum, the mass coming downstream with the current, or the mass going upstream against the current?

A. Well, I should judge, on account of the current being against the oil barge, and the rock barges coming down with the current, and had done no backing or anything before that, I should judge the rock barges would have the most force.

Q. Well, suppose the rock barges and the Samson were traveling at anywhere from six to nine miles an hour, we will say about seven miles an hour, downstream, and they would commence to back, we will say, about a minute before the collision, and the oil barge with the Henderson was going upstream, at about three miles an hour, less than half the speed of the other, and they had been backing approximately a minute, or a minute and a half; under those circumstances, which in your judgment would have the more powerful headway?

A. Well, it would be hard for me to say. Now, I think the Samson's backing power wouldn't be equal to the stern wheeler, on account of her having current with her, and the current was favorable to the oil barge stopping where it wasn't with the Samson. The Samson is a propeller boat, and she wouldn't back—on account of going through the current, she wouldn't back very good. She would simply turn around,

swing with her bow to starboard, under them circumstances, as far as my experience has been with them.

'Q. One having more than double the speed of the other, would that enter your calculation?

A. Having double speed?

A. Yes; the Samson coming down with the rock barges, at say, seven miles an hour, while the Henderson coming up, had only three miles an hour. Would it make a difference?

A. Yes. Of course that much difference, would be that much harder for the Samson to stop her barges.

Q. Under those circumstances, which would carry the greater headway after the collision?

A. Well, providing both of them was loose, adrift, takes way from them by backing.

A. No, the backing stopped at the time of the collision practically?

A. Yes, sir.

Q. The backing stopped at the moment of the collision, and the Henderson sheered loose, but the rock barges crushed into her and cut her loose. I have asked you all that before. Now, I am adding to it this other element, that the rock barges coming down had more than double the speed of the others going up, and under those circumstances, both having stopped backing at the time of the collision, both having been backing for, say, a minute, or a minute and a half before the collision, which would have the greatest momentum, in your opinion?

A. I suppose the rock barges would going down stream.

Cross Examination.

Questions by Mr. MINOR:

Captain, did I understand you to say that you turned the Samson with her loaded barges clear around at Fort Stevens in three minutes?

A. Yes, sir.

Q. What were you turning her around for?

A. To land. To land the barges in the slips.

Q. Do you turn her around to land the barges in the slips?

A. Yes, sir.

Q. Entirely around?

A. Yes, sir.

Q. And go up river?

A. Yes, right end to end.

Q. To land the barges in the slip?

A. Yes, sir.

COURT: End for end, or do you mean half round?

A. No, end for end; right opposite; right clean around. That was the time we used to do it with. I timed her time and again.

Q. Now, in going down the river with her barges, how far are you away when you begin to turn?

A. At Fort Stevens?

Q. Yes.

A. Well, not less than half a mile; between half a mile and three quarters, I guess.

Q. You begin to turn between a half and three

quarters of a mile?

A. We go out as far as we possibly can to the edge of the sand to make that turn, ebb tide.

Q. You go out half to three quarters of a mile?

A. I don't know; maybe more to land.

Q. Not less than half a mile?

A. Not less. I don't believe can turn those barges with ebb tide down there in less than half a mile. Not to make that clean turn right around, I don't believe.

Q. In turning, do you back down there?

A. No, sir.

Q. Don't back at all?

A. Not until we go to land. We have to land head on. My fingers are the slips we have to land (illustrating). We have to go down and make the turn and come up with the barges that way; a slip here, and another here, and now generally put the outside two slips. We have to go head on these slips in here to put the barges in.

Q. These slips head down the river?

A. Practically. They angle a little, about head for Cape Disappointment.

Q. You go below the jetty to get in?

A. Not below the jetty, no.

Q. Aren't those slips right at the jetty?

A. Up where the jetty starts; commences a little ways below where it first starts.

Q. Up to the shore line of the jetty, are they?

A. They are outside the shore line of the jetty. The jetty starts up about half a mile above where the

docks is, and run out. The jetty runs out in kind of a half moon shape, and runs right down.

Q. The jetty starts on the Oregon side?

A. Yes, sir.

Q. And where are those slips you speak of—how far from land?

A. They are right there. They are built right at the jetty.

Q. Right at the land?

A. Yes, right at the land.

Q. And the jetty runs down the river diagonally, doesn't it?

A. I guess it does. I don't know exactly the right angle the jetty is running out; it runs downstream, as I call it.

Q. Diagonally?

A. No, I can't say whether runs diagonal, or not. I guess it runs somewhere towards the cape. That would be rather angling that way.

Q. When you come down, which side of the river do you come on with your rock barges?

A. I come down the channel, down the ship's channel.

Q. Which side of the river?

A. The Oregon side of the river.

Q. The Oregon side?

A. Yes.

Q. And where do you begin to make your turn to get into these slips?

A. At the edge of the sands, the Washington side

of the channel.

Q. Then you cross the river from the Oregon to the Washington side?

A. We cross the channel.

Q. How far is that across?

A. About as I tell you, when a half or three quarters of a mile where we go to turn around.

Q. I understood you to say it was from half to three quarters of a mile from the sand to the slip?

A. Yes, that is about the channel.

Q. How far is it from where you leave the Oregon side of the channel to go to where you go across the sands—across to the sands?

A. Well, that depends on the weather. If bad weather, southwest wind, we get close inside, and down below Flavel. And then we hike out a little ways to throw us to the sands then.

Q. If going that way, how long does it take you to turn then?

A. About the same time; about three minutes to turn them barges around.

COURT: I wish to stop at 10:30, if you have any particular matters you want to bring out.

Q. Now, Captain, when you make this turn, how fast are you going with the Samson?

A. Full speed all the time.

Q. Full speed all the time?

A. Yes, sir.

Q. And you tell this Court, that you can turn the Samson going full speed all the time, in three min-

utes?

A. That is what it used to take; that was her time.

Q. And in that time you say you go how far?

A. Well, in that circle she would take in all of half a mile. Between one half and three quarters of a mile on the circle.

Q. She takes a half a mile from the Washington sands to the slip?

A. Yes, sir.

Q. And she takes how far to get to the sand?

A. Well, we come down the river, you know, and we figure on that as we come out. As we come down, we keep going out. We don't go straight out and turn around; figure that all the way down.

Q. From the sands, Captain, how much do you turn, from the sands?

A. I told you half a mile.

Q. Clear around?

A. Yes, sir; from end to end from the edge of the sand.

Q. And yet you don't go below the jetty?

A. No, the jetty is way out to sea; five miles out to sea.

Q. You don't go below the jetty?

A. I go below part of it, yes.

Q. And the slip you spoke of, how do you go into the jetty? Do you go into the jetty with your barges head on?

A. Head on, yes, sir.

Q. Head on to the jetty?

A. We go in head onto the jetty, and head onto the slips when we get turned around.

Q. Do your slips head onto the jetty?

A. No, we make a circle. We have to head for the jetty at the time we make the circle.

Q. How do your barges lie when you come into the jetty? Head onto the jetty when you get to the jetty, or not?

A. We don't get to the jetty. We are in the slips.

Q. When you get to the slips, how are the barges? Head onto the jetty?

A. Right to the slip.

Q. But how about the jetty? Are they heading to the jetty, or how?

A. Laying parallel with the jetty, when heading for slips.

Q. That is what I want to know.

A. Yes, parallel with the jetty when heading for slips.

Q. And with that you don't back the Samson at all?

A. Not until we get up into these slips. Then we have to back to keep from knocking the slips down.

Q. How far?

A. Not very much; just enough to stop her.

Q. How many minutes do you have to back?

A. I don't know. I never paid much attention to time.

Q. How far away when you begin to back?

A. Probably a couple of lengths of the barge. We stop the engine and let her run down with the tide; if the tide is running down, we don't have to back very much. It is a matter of judgment, making a landing with these barges down there. It is a matter of judgment whether stop on going up with the ebb tide. We get pretty close up with the ebb tide, because stops pretty close here with very little backing.

Q. I understood you to say that there at Puget Island there is a current goes down Prairie Channel.

A. Yes, some current goes down Prairie Channel, yes.

Q. I would like to ask whether a large part of the driftwood doesn't go down Prairie Channel.

A. Yes, considerable goes down; more goes down the other channel, too.

Q. Didn't you tell Mr. Kern a little while ago you believed fully half went down Prairie Channel?

A. I shouldn't wonder but half did go down. I don't know. Probably more, maybe less. Some goes down both of them.

Q. You say going down there you put your boat on port helm, and run on that until you get to the range lights, or the range of lights?

A. Not on a port helm. I port my helm and then steady her up.

Q. Then you run steady until you get the range lights?

A. Yes, providing—

Q. (Interrupting) Do you know two sloughs on

that island—Puget Island?

A. Yes, sir.

Q. Do you know one called Grove Slough?

A. I don't know it by name. I call the Ostervolt Slough the big one, by Ostervolt's seining ground.

Q. And you know the one just below the seining ground?

A. Yes, sir.

Q. And that one below his seining ground used to have an old trap in it, didn't it?

A. Yes, sir; right close to it.

Q. And how far between those two sloughs?

A. Oh, I don't hardly know. I should judge it was three quarters of a mile there.

Q. Three quarters of a mile between those two sloughs?

A. Somewhere about that, I should judge.

Q. Where do you get the ranges on the course that you steer, as compared with those two sloughs?

A. Well, I never noticed the lower one. That is the one down to where the old trap is, but Ostervolt's Slough, I should judge, a thousand feet, or two thousand feet below it. Anywhere from 1500 to 2000 feet below Ostervolt's Slough on those ranges.

Q. When you get on the ranges, you are from a thousand to two thousand feet off—to get on those ranges?

A. I think so.

Q. And you think to do that you only have to port your helm a little bit to run the Samson?

A. I think so. A change in her course of three and a half points; that is what my change used to be, on the compass.

Q. Captain Moran, you were telling also about the Kern there once, having some accident that her wheel broke.

A. Yes, a wheel rope carried away down there one night.

Q. You backed the Kern, did you?

A. Yes, sir.

Q. Which way does the Kern back?

A. Her head will swing to port, right opposite the Samson.

Q. Which way does she back, I asked?

A. Backs to port. Her head will go to port and her stern to starboard.

Q. When you speak of backing, you always speak of backing either to port or starboard. Which way does she back?

A. She backs to port.

Q. She backs to port?

A. Yes, sir.

Q. Which way does the Samson back?

A. To starboard.

Q. These other witnesses who have handled the Samson say she backs to the port side.

A. I don't care what they say. She backs to starboard. She has a right hand propeller, and head swings that way every time. And if you reverse her and look forward and aft, she backs to starboard too.

Q. If the Samson backs and goes back or down the river backing, what direction does she go—starboard or port?

A. That way (indicating).

Q. To the right or left?

A. To the right if looking aft, and left if looking forward.

Q. Of course, she is going—which way does she back?

Mr. C. E. S. WOOD: It couldn't be clearer than that.

A. I tell you she will back to starboard, her head will swing to starboard, and—

Q. I want to knw if the Samson is backing, say, from you to me—understand?

A. Yes, sir.

Q. Then which way does she go—does she go to starboard or port?

A. She will go to starboard. Her head will every time.

Q. What direction will she take?

A. She will just simply swing to starboard.

Q. What direction will she go?

A. Her stern will swing to port, and her head will swing to starboard.

Q. And she herself will go all the time to port, will she not?

A. If she has got headway on her, or backing?

Q. If backing, that is what I said.

A. Well, she will certainly back that way, yes.

Q. She will go to port then, backing, and the Kern backing will go to starboard?

A. Excuse me; it depends on how you are looking at the ship. I studied Reed, and he says if looking forward and aft a right-hand propellor boat backs to starboard. If looking forward to forward, she is backing forward; she swings.

Q. I don't care anything about Reed, or anything of that kind. I mean now. We understand each other. The Samson when backing is going back, isn't she?

A. Yes.

Q. In what course is she going, to starboard or port? If that is the direction she is going backward—

A. You want to look—

Q. The course she is pursuing, going starboard or port?

A. If I am looking at that vessel's stern, and she is backing, going to starboard.

Q. Is she going to her right or left? In other words, the Samson is backing in a southerly course, and she is backing—does she go east or west?

A. If she is on a southerly course and backing?

Q. Yes, the stream is north and south, she is backing. The stream runs north, she is backing.

A. She would back to the eastward.

Q. She would back to the eastward?

A. Yes.

Q. And you call that backing to starboard, do you?

A. Yes; provided I am looking aft.

Q. In a left-hand ship, in the direction in which the ship is going, left?

A. Yes, sir.

Q. And the Kern backs the opposite way?

A. Yes, sir.

Q. And consequently the Samson backing on this part of the course, would back downstream, wouldn't she, and the Kern would back upstream, wouldn't she? In other words, the Samson would back towards Oregon, and the Kern would back towards the Puget Island shore. Is that right, or is it the other way.

A. The Kern will back—

COURT: (Interrupting): I think I understand that.

Witness excused.

Mr. C. E. S. WOOD: To answer a question of the Court, I will call Mr. Ostervolt.

JOHN OSTERVOLT, a witness called on behalf of the libellant, being first duly sworn, testified as follows.

Direct Examination.

Questions by Mr. C. E. S. WOOD:

Q. What is the depth of those fishing drift nets?

A. Generally 45 feet; they draw that much water.

Mr. C. E. S. WOOD: That is all I want tonight.

Witness excused.

COURT: I will refer the taking of the rest of the testimony to Miss Bell.

Mr. MINOR: I thought we were through with this, and I have an engagement.

COURT: The Court leaving at this time needn't interrupt the case. You can go right on.

Mr. WOOD: That was my idea. I think if you have the witnesses here, that would be the better course to pursue.

Mr. MINOR: When you consider the fact that Mr. Wood and myself were advised by your Honor that you wouldn't sit longer than today, and also of the fact that I had advised Mr. Wood that I had another case coming on for trial, it seems a hardship. However, if Mr. Wood insists on my trying this case tomorrow, and putting over the other case, I will let the other case go by default, if Mr. Wood insists upon it. I have nothing to say about it.

Mr. WOOD: You know I am not going to insist on your defaulting the case, but the fact is, I understood we were to go on just as if his Honor was here.

COURT: That matter will have to be settled between yourselves.

Mr. WOOD: I can close our rebuttal tomorrow.

COURT: I doubt whether I can take up the consideration of the case again before the first of February.

Whereupon proceedings herein were adjourned until Wednesday, January 15, 1913, 9:30 A. M.

Mr. MINOR: It was agreed, Mr. Wood, that we were to put in the testimony of Mr. Peterson, taken before the Inspectors. I now want to put in the tes-

timony of Peterson from page 900, to the end of the examination, on Page 916, where Mr. Shepherd takes it up. I don't care for Mr. Shepherd's examination. And then again, the last question on Page 936, down to the bottom of 942.

Mr. C. E. S. WOOD: All this is admitted under the same objections. No objection to it as a deposition, and objections for competency and materiality, etc., as applied to the case, are reserved for the argument.

Mr. ERSKINE WOOD: It is also included in the stipulation that we have the right to introduce any of Peterson's testimony we may desire.

Mr. MINOR: No objection.

Peterson's testimony before the Inspectors is as follows:

JOHN PETERSON was next called as a witness and having been first duly sworn, testified as follows:

Examination by Inspector EDWARDS:

- Q. What is your name?
- A. John Peterson.
- Q. What is your occupation?
- A. Sailor.
- Q. Where were you employed on July 22nd of this year?
- A. On the Samson. It wasn't the 22nd, was it?
- Q. July 22nd of this year. Where were you employed?
- A. I was on the Samson.

Q. And were you on the Samson at the time of the collision between the M. F. Henderson and the Samson?

A. Yes, sir.

Q. Where were you at the time of the collision?

A. I was to the wheel.

Q. You was at the wheel in the wheel house?

A. At the wheel, yes, sir.

Q. And who else was in the pilot house with you?

A. The pilot.

Q. How long had he been there?

A. He had been there since I came on watch, twelve o'clock.

Q. When did you go on watch?

A. Twelve o'clock.

Q. Was he there when you came on watch?

A. Well, sometime he come in ahead of me, some time I go ahead of him.

Q. Was he there when you came on watch?

A. Yes, he was in the pilot house.

Q. He was in the pilot house when you came on watch and he stayed in the pilot house all the time?

A. All the time.

Q. Until after the collision, and so forth?

A. Yes, sir.

Q. And he gave orders to you as to what to do?

A. Well, he come on the bend, he give me orders—

Q. Wait a minute; did he give you orders what to do?

A. Yes, sir.

Q. And you never did any steering, altering the course of the vessel one way or the other, without him giving you orders?

A. No, sir, I never did.

Q. And he didn't leave the pilot house from the time you went in there until the thing was all over?

A. No, sir.

Q. And you only steered the vessel under his orders?

A. Under his orders.

Q. And when he told you to port you ported?

A. I ported.

Q. And when he told you to steady you steadied?

A. Yes, sir.

Q. And when he told you to starboard, you starboarded?

A. Yes, sir.

Q. Now, go ahead and tell what you know about —one moment—are you acquainted with these points and the situation down there?

A. Well, I ain't much acquainted down there, I go after the pilot's orders.

Q. You go after the pilot's orders? Do you know where Puget Island is?

A. Yes.

Q. Do you know where Hunting Island is?

A. Hunting Island?

Q. Hunting Island, yes.

A. Well, only hear them say; I ain't much acquainted down there.

Q. Do you know where Coffee Island is?

A. Yes, sir.

Q. And do you know where Tenas Illihee Island is?

A. Yes, sir.

Q. And do you know where Bugby Hole is?

A. Yes, sir.

Q. Do you know where the Bugby Light is?

A. Yes.

Q. Do you know where Westport Slough is?

A. Yes.

Q. Do you know where Westport Light is?

A. Yes, that is where we steer for.

Q. Now, go on and tell what you know of the circumstances connected with that collision, as far as you did see, from the time that you passed Bugby Light.

A. Well, do you want me to explain the whole thing without stopping?

A. Go right ahead; yes. We don't care whether you stop or not.

A. Well, when we come on the bend the pilot told me to port the helm a little, and so I did; and when we get on the bend, we see the Henderson down there. Of course I didn't know if it was the Henderson, or he didn't know; and I could see the light, and so we—

Q. (interrupting) State what light you saw.

A. State the lights?

Q. State what lights you saw.

A. The masthead lights. And then the pi-

lot says to me, he says, "I wonder what side he wants to take." I said "I don't know." And then a little while after he blowed one whistle. Well, the pilot answered one whistle, and he says port. Well, our wheel was a little to the port, but it wasn't very hard over; so I put the wheel over; and he says "Have you got it over?" "Yes," I says. Just about the time he answered me the bell went off; he says "Telltale, eh?" And he just put his hand on the telltale. Well, then after he blowed the one whistle this pilot says "What the hell is he doing? He steers kind of bad." So I says "Yes; the way it looks he steers bad." Well, then he turned around and he shows the green light, and that green light don't shut out hardly, probably a few minutes and "By God," the pilot says, "that looks kind of funny." Then he turned around again and he blowed another whistle, and the pilot says again, I think—of course I wouldn't swear to it—he says "The wheel over?" I says "Sure, the wheel is over." And then he showed a green light again and that green light wasn't shut out up to the accident. Just a little, probably a few minutes before he was right on top of us.

Q. With the green light in view?

A. The green light was in view right up almost to the accident. That is, the green light was shut out almost when he was on top of us, when he put the broadside to just before the collision.

Examination by Mr. MINOR:

I understand you came around the point of the isl-

and with your helm aport?

A. Aport.

Q. Can you say how much aport it was?

A. No, I could not exactly tell how much it was.

I know it swings gradually close to the island.

Q. How near were you to the island, in your judgment, when you came around the point?

A. Well, that is pretty hard for me to tell you. I don't know. It is pretty close.

Q. Were you nearer to Puget Island than you were to the Oregon shore?

A. Closer to the island.

Q. Could you see the Daniel Kern when you came around there?

A. No, sir, I could not see no Kern at all.

Q. You could not see the Kern at all?

A. No, sir.

Q. But you saw the boat which was coming?

A. I saw this boat coming.

Q. And how far was that boat away when you first saw her?

A. I could not exactly tell you how far. I could not judge how far she was away from us.

Q. How long after you saw her before she whistled?

A. How long?

Q. After you first saw her before first whistled?

A. Tell me again please.

Q. How long after you first saw this boat before she whistled?

A. Well, probably about a couple of minutes or three minutes, something like that. I could not exactly tell you just to the amount.

Q. You could not tell exactly?

A. No, that is impossible.

Q. When she whistled was your helm aport still?

A. Yes.

Q. What did you do after she whistled?

A. Put the wheel hard over.

Q. Put the wheel hard over?

A. Hard over after the first whistle.

Q. After the first whistle you put it over hard?

A. It was to port a little bit before but it wasn't hard over.

Q. You put her hard over then, and at that time did you answer the whistle?

A. Sure, the pilot answered the whistle.

Q. Answer with one whistle?

A. With one whistle, yes, sir.

Q. How long between the first whistle that she blew and the second whistle that she blew?

A. Well, I should judge about, I don't know exactly; probably three minutes more or less.

Q. You think it was a few minutes?

A. Yes, probably three or four minutes; that is what I should think.

Q. How far did you judge this oil barge was from you when you first sighted her that night?

A. When I first sighted her?

Q. Yes.

A. I could not tell you, sir.

Q. You don't know how far it was?

A. It was impossible for me to tell you; I could not tell you how far she was.

Q. How long have you been a sailor?

A. I have been sailing quite a number of years.

Q. How many years?

A. Eighteen years.

Q. Where?

A. On the east coast.

Q. On the Atlantic?

A. Yes, sir. Well, I have been in English steamers and I have been in Swedish steamers, and also Norwegian and schooners.

Q. How long have you been steering?

A. I have been steering all my life since I was at sea. Started at sea.

Q. When you first saw the oil barge how many lights did you see?

A. When I first saw the barge?

Q. Yes.

A. I could not tell you. I could not see any more than the masthead lights. I wouldn't swear to any other lights.

Q. When you first saw her?

A. When I first saw her.

Q. And when did you see her side lights, how many did you see?

A. I see the two.

Q. You saw the red and the green both when you

first saw them?

A. Yes, sir.

Q. After that you say you saw the green one by herself?

A. No, I saw the two together.

Q. I know, but after that?

A. After he blew the whistle, yes.

Q. After he blew the whistle, you saw both?

A. Yes, sir, I saw both.

Q. At the time the first whistle was blown, could you see both?

A. Yes, sir.

Q. You saw both the red and green?

A. Saw the red and green.

Q. After the first whistle was blown, you still saw the red and green both?

A. Yes, sir.

Q. When the second whistle was blown, what could you see then?

A. After the second whistle I could see the same light then.

Q. See what?

A. The green and red light, both.

Q. I thought you said at one time you saw only the green light?

A. I didn't say that.

Q. I misunderstood you then.

Mr. SHEPHERD: He said she showed her green light.

A. Showed her green light; I mean the two lights

were together. I could see the two lights.

Q. Now, could you see the two lights almost until the collision?

A. Yes, sir.

Q. How long before the collision before you could not see the green light?

A. Before the collision?

Q. Yes.

A. How far you mean he shut out the green light?

Q. Yes; how long after she shut the green light out before the collision took place?

A. Probably a few seconds.

Q. A few seconds you think?

A. A few seconds, I should think.

Q. Now, you say coming around the island that night you were much closer to the island than you were to the Oregon shore, and you kept closer to the island, did you?

A. Keep closer to the island.

Q. And you came around there on a port helm?

A. On a port helm a little.

Q. Had a port helm most all the way?

A. Yes, sir.

Q. You had to steady at times, did you?

A. Well, some times check a little, but she was to port a little all the time.

Q. Yes, was to port a little all the time. After the first whistle was blown you say then the Captain gave you an order to port still more?

A. Port still more. He says "Port" after the first

whistle.

Q. And how long after that before he gave you the order to hard aport?

A. Well, I put it over hard aport.

Q. When he told you to port you put it hard aport?

A. Well, the bell didn't come right on then, because I didn't have my hand on it exactly. He says "Have you got her aport?" So just the time he spoke the bell went off.

Inspector EDWARDS: The bell went off?

A. Yes; the bell went off to indicate.

Inspector EDWARDS: The indicator strikes the bell?

A. The indicator strikes the bell.

Inspector EDWARDS: Either port or starboard.

Q. Was that before the second whistle was blown?

A. That was before the second whistle.

Q. When the bell went off it was hard over?

A. When the bell went off it was hard over, yes.

Q. After that time did it remain hard aport?

A. Hard aport up to the time of the accident.

Q. Up to the time of the accident. Do you remember that the second whistle was answered too?

A. Yes, sir; I can remember that well.

Q. You remember that well?

A. Yes, sir.

Q. Now, do you know where the ranges are down there, the Hunting Island Range?

A. I do.

Q. Did you go down on the ranges at all that night?

A. No, sir; we was up above the ranges.

Q. Above the ranges all the time?

A. Up above the ranges.

Q. You are quite sure of that, are you?

A. I am sure of that, quite sure.

Q. You don't know how far you were from shore?

A. I could not tell you exactly.

Q. But you know you were above the ranges?

A. I know I was above the ranges.

Q. Do you remember when you crossed the ranges that night?

A. When we crossed the ranges?

Q. When you crossed the ranges. Did you cross the ranges after the accident?

A. Well, I could not tell you anything about that because we was steering just for the Skamokawa light.

Q. I know, but after the accident?

A. After the accident?

Q. You went over to the Henderson, didn't you?

A. Yes.

Q. Did you cross the ranges when you went over to the Henderson?

A. I could not tell you. I didn't take notice after the accident at all.

Q. Were you at the wheel afterwards when you went over to the Henderson?

A. No; sir. After the accident, the Captain, the

pilot took charge of the wheel.

Q. The pilot himself took charge of the wheel.

A. He took charge of the helm and I could not tell anything more about the wheel or the wheel house after that, because we went down below; we got busy after that.

Q. You went down below after that?

A. Yes, sir.

Q. What did you do when you went below?

A. The captain came up and the pilot hollaed—we went down, was going to let go the barges, the lines, and he says "Let go the lines," and the captain—now, I don't know if it was the captain or the pilot that told us to let go the lines. I went down on the barge and was going to cast the lines out; then we got—I don't know if we got one line; I didn't throw any lines out; anyhow he says to let go and lower the boats down.

Q. Lower the boats?

A. Lower the boats. Of course before I left the wheel house the pilot asked the Captain of the Henderson if he needed any help, and the way I understood he said he didn't need any. And as I said I left the pilot house then and I went down on the barges, and some of them was up on top to lower the boats down and I stood on the barge to shove the boat over the barge, and the barge was swinging a little. I was down on the barge there standing right to the boat when it come over and was going to shove the boat over. Of course he was half away from the stern of

the barge.

Q. When the first whistle blew you were then on a port helm?

A. On a port helm.

Q. And when the first whistle did blow the captain said "port the helm"?

A. He says "Is it to port?" I says "Yes; port hard over," I says.

Q. Hard over at that time? You put it hard over?

A. It was hard over up to the time of the accident.

Q. From the time the first whistle was blown?

A. Yes, after he heard the first whistle he says "Port" and I put it over, hard over.

Q. You put it hard over?

A. Hard over.

Q. And you remember—

A. (Interrupting) I remember he said "Have you got it over?" I says "Yes," and just the time he spoke the bell went off.

Q. And that was after the first whistle?

A. After the first whistle.

Q. And before the second whistle?

A. And before the second whistle.

Q. Now, Mr. Peterson, did you do everything which you possibly could do, so far as steering your boat was concerned, after the first whistle was blown to get your boat to port of the oil barge and the Henderson? Was there anything you could do to have gotten your boat farther aport?

A. I could not do anything more.

Q. You could not?

A. No; Great God! the wheel was hard over; I couldn't break it.

Q. Do you remember whether the Samson backed any about the time of the accident?

A. Well, it backed, yes. After he struck her he backed. He gave me one bell to slow down and then he gave me another one and two to back and a jingle. I hear that. That was before I just went out of the wheel house.

Inspector EDWARDS: How many bells all told?

A. One bell to slow her down.

Inspector EDWARDS: How many bells all told did he give you?

A. Four; two to stop; he give me two to back; four is all I could hear.

Inspector EDWARDS: That is all. I just wanted to get the bells right.

Q. Now, he gave the bells to back before the collision took place, did he?

A. Sure.

Q. And how long did he back, do you think?

Mr. SNOW: He said after the collision took place he gave the bells.

Mr. MINOR: No, he said before.

WITNESS: No, I said before.

Mr. MINOR: I know it is a little hard to understand him. I understood him as you did but when the captain spoke to him, I understood him.

Q. Now, how long did he back?

A. I don't know how long it was.

Q. How long do you think it was?

A. I could not exactly remember; probably more or less. Of course we went into the question after they run into us—

Inspector EDWARDS: Wait a minute. Answer Mr. Minor's questions.

Q. How long do you think he backed?

A. Well, he went back a minute or two minutes; I don't know how long.

Q. You think he backed for a minute or two minutes?

A. Yes, of course I could not tell you.

Q. And was he still backing when you went down below?

A. Still backing.

Q. When you went below?

A. When I went out, yes. As I told you before, I left the wheel then after the accident when he backed; he said starboard the wheel; well, I starboard a little, then he took charge of it and I went out.

Q. That was after the accident?

A. After the accident, after he run into it.

Q. At the time the accident took place, you were at the wheel yourself?

A. I was just at the wheel, yes, at the time of the accident.

Q. Now, were you where you could see what barge struck, or how the barges struck, or were you looking only at your wheel?

A. Well, I was looking at the Henderson when she come right into us in the collision; I just looked right at the Henderson.

Q. You looked right at the Henderson?

A. Yes, sir.

Q. Could you see her?

A. Sure.

Q. What struck the Henderson?

A. The center barge.

Q. The center barge; that is the barge which struck the Henderson amidships, is it?

A. Amidships barge, yes.

Q. That is what struck the Henderson amidships?

A. Yes, sir.

Q. Did the port barge strike the Henderson too?

A. I could not say.

Q. You could not say whether it did or not?

A. I could not say that, no.

Q. Did you see the oil barge at that time?

A. Yes.

Q. Did the rock barge, the port rock barge, strike the oil barge?

A. I could not tell you anything of that because I could not see that.

Q. You could not see that. Did you see the oil barge come by after the accident, pass you?

A. After the accident it went by, yes.

Q. Was she coming rapidly?

A. She was coming gradually, slowly, very slow.

Q. Did you hear any order given on the oil barge

to lower the anchors?

A. I didn't hear anything.

Q. To drop the anchors?

A. I didn't hear anything.

Q. You didn't hear that?

A. No, sir.

Q. You say you heard the Captain or some one give an order to drop the anchors on the rock barges?

A. Our captain.

Q. Yes, on your rock barges. Did you hear your captain or your pilot give orders to drop the anchors?

A. Yes, I heard him say "Never mind the barges; we will get hold of the boat first and get her overboard."

Q. Did you go back to the wheel that night at all?

A. No, sir.

Inspector EDWARDS: That morning.

Mr. MINOR: Captain you will have to excuse me for calling it night as long as it is dark.

Q. You were at the wheel when you picked up the barges the next morning?

A. No, sir.

Inspector EDWARDS: The same morning.

Q. The same morning?

A. No, sir, it wasn't my wheel turn. In fact I didn't want to go to the wheel, we was busy with the barges and at anchor.

Q. You didn't go back to the wheel any more that morning?

A. No, sir.

Q. Did you look out about the time of the accident to see whether you were near the shore or not?

A. Well, I didn't take much notice of that. I know we was pretty close where we turned around on the bend.

Q. You were pretty close to the shore?

A. Pretty close.

Q. Did you go nearer the shore or further from shore from that time until the collision?

A. Well, I should think we keep pretty close.

Q. Think you kept about the same distance?

A. The same distance probably.

Q. Can you tell whether you were nearer to the Puget Island shore or to the Oregon shore?

A. We was closer to the Puget Island shore.

Q. You could not tell how near you were to the Puget Island shore?

A. No, sir, not exactly.

Q. About what is your estimate? About how far do you think you were from that shore?

A. Well, I don't know. It might be nine hundred feet, or probably less. I could not tell.

Q. You could not tell?

A. I could not tell you, no.

Q. You could see the shore, could you?

A. Well, I didn't take much notice of the shore that night; I will tell you that.

Q. But you are sure that you hadn't come down on the range at all?

A. I am sure I wasn't on the ranges at all.

Q. And didn't go on the ranges before the accident?

A. No, sir.

Q. In the morning when you picked up the scows, or these rock barges, did you notice whether they were close to the shore or not?

A. I know they were pretty close to the shore.

Q. How far do you think they were from the Puget Island shore then?

A. A couple of hundred feet, I think it was and a couple of them was a little more than the other.

Q. The two you think were further off than the other one?

A. I think the one—the two barges was nearer to the shore, I think.

Q. The two were nearer you think than the one?

A. Yes.

Q. But you think the two were about two hundred feet from the shore?

A. Yes; probably a little more.

Q. And you think the other one was how far?

A. I mean it might be a little less.

Q. I understand now Mr. Peterson, that from the time that you got a signal from the oil barge your helm was hard aport?

A. Yes, sir.

Q. And there was nothing which you could do to pass further away from her on that side?

A. No, sir; impossible.

Q. Did you notice any change in her course during

that time?

A. Yes, sir.

Q. Was she coming straight?

A. She was coming gradually.

Q. She didn't change her course at all?

A. Him?

Q. Yes.

A. No, sir, how could he have changed—

Inspector EDWARDS: Never mind.

WITNESS: Oh, excuse me.

Q. He didn't change his course at all, you say, as far as you could see?

A. Not as far as I could judge, because I saw the two lights right along almost.

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Questions by Mr. SHEPHERD:

Now, then you testified when you came around that point of Puget Island up here where you swing from the Bugby light, that you swung around there on a port helm?

A. Yes, sir.

Q. About how much helm did you give her? How much did you have to give her to swing around there?

A. I didn't have to give her much to swing gradually. To swing gradually you don't give her much wheel; you don't need to.

Q. About how much do you think?

A. Well, here is the telltale.

Q. We will say this is your half circle, half round, there, and your telltale is swung from here (counsel

drawing sketch); that is straight ahead; see? Now, about how far between this point and this point—this is hard over here—well, that would be hard over about there, wouldn't it? This is about hard over here, isn't it?

A. Yes, sir.

Q. Going around that point about how much do you have to give her?

A. Well, that is different different times. Sometimes probably turn her just a little, you can see how she swings, more or less.

Q. Well, how far, how near hard over do you have to put her to swing that point?

A. We don't have to put her half way over.

Q. About in here (indicating)?

A. Yes, sir.

Q. About there?

A. Yes.

Q. Now, that will make that bend all right will it? That will come around that bend all right with her over there (indicating)?

A. Some times we put her more or less. It ain't always the same thing.

Q. Around there somewhere (indicating)?

A. It ain't always the same.

Q. And if she will come around that bend, then that night you had put her about that much (indicating) I suppose?

A. Yes, sir.

Q. Coming around there; and you steadied her

again?

A. No, sir.

Q. When you saw this?

A. No, sir.

Q. Had he steadied her when he got the first whistle?

'Q. If I steadied her when I got the first whistle?

Q. Before the collision?

A. She was a little port and coming gradually.

Q. What is that?

A. She was on port coming gradually.

Q. She was on port coming gradually; but when you got the first whistle—you heard the first whistle didn't you from the oil barge?

A. Yes, sir.

Q. At that time had you steadied her?

A. No, sir, not quite.

Q. Pretty near, eh?

A. Pretty near.

Q. She was pretty near steady going a straight course almost when you got the first whistle?

A. Yes, sir.

'Q. Then what did you do?

A. Then after we got the whistle he gave me a port—

Q. Your pilot answered the whistle?

A. Answered the whistle, yes, sir.

Q. And you gave her to port?

A. Port.

Q. How much?

A. Hard over.

Q. Hard over?

A. Well, the bell didn't went off.

Q. No, not at that time?

A. No.

Q. But it was pretty well over?

A. Pretty well over.

Q. And how far were you apart then, do you think?

A. From where?

Q. From the oil barge?

A. When they tell me, when they blow the first whistle?

Q. Yes.

A. I could not tell you, sir.

Q. Do you think you were a half mile?

A. I could not tell you the least thing about it.

Q. Were you a hundred feet?

A. I don't know how far we was from it.

Q. Not the least idea?

A. I could not tell you; no.

Q. And can you tell in time how long before you ran into the Henderson, before the collision was it? How was it about that, Mr. Peterson?

A. What?

Q. How long before the collision did you get the first whistle?

A. How long between the collision and the first whistle?

Q. Yes, the first whistle and the collision; how

long after the first whistle to the collision?

A. Well, I should judge, I should think about—well, I could not tell you exactly; it might be between five and six minutes, what I should judge. I could not tell you exactly.

Q. And how long after the first whistle before you put your wheel hard over, or nearly so?

A. How far.

Q. How long, yes, after the first whistle?

A. After the first whistle?

Q. After you answered it?

A. After we answered the whistle, he says "Port" and I put it over to port.

Q. How far?

A. Well, as I tell you it was almost over in a minute; and he says "have you got it over?" I says "Yes."

Q. This was after the first whistle?

A. Yes, after the first whistle.

Q. And you ran about five minutes with the wheel hard over?

A. Hard over?

Q. Before the collision?

A. After the whistle went?

Q. Yes, after the whistle went?

A. After he answered the whistle, yes.

Q. You ran five minutes you think?

A. Well, I should say it might be more or less; I could not exactly tell you.

Q. And did she swing any, the Samson?

A. Yes, sir.

Q. About how much?

A. Well, then I saw she swings then; oh, I think it was about a couple of points.

Q. You think she fell off two points?

A. Below.

Q. And then you got the second whistle, didn't you? And what did you do then?

A. What did I do then?

Q. What order did you get then?

A. After he blowed the first whistle?

Q. No; after the second whistle?

A. After the second whistle?

Q. Yes; and you got another order?

A. I got another order. He says "Have you got the wheel over?" I says "Yes, the wheel is over; I can't do no more."

Q. You had had her over all the time?

A. I had had her over right along.

Q. Five minutes you think?

A. I should judge; I could not say exactly. I know she was hard over.

Q. You know she was hard over from the time you got the first whistle until the collision?

A. Yes, I know that for a fact.

Q. You are sure of that. How was he headed, do you know? Did that bring her around any?

A. Yes, sir. I know he was heading for the land then. She was swinging for the land.

Q. How near pointed toward the land was she?

A. I don't know exactly. I could not tell you.

Q. You saw the middle barge strike the Henderson on the port side?

A. Yes, sir.

Q. And was your boat pointed to the land at that time?

A. It was facing the land, yes, sir.

Q. And the Henderson was between the bow of the middle barge and the land, was she?

A. The Henderson was what?

Q. Was the Henderson between the land and the middle barge?

A. Well, I don't know how far it was, because I know how she was going and she swung around there. I don't know exactly how far she was from the land or where he was heading, because I took more notice to go by there, because the accident I could see was right on top of us.

Q. Oh, they ran on top of you?

Q. Well, I don't know.

Q. Did they run on top of you, or you run on top of them?

A. I should think that he run right on top of us.

Q. Oh, yes; and her stern was down stream or up stream?

A. The stern?

Q. The stern of the Henderson?

A. The way I should judge, I think she was laying broadside. I didn't take any notice how she was laying at all.

Q. But you know you were headed toward the

land?

A. We was heading towards the land.

Q. You were heading towards the land?

A. Yes.

Q. And if you struck the Henderson the Henderson must have been between you and the land?

A. Between me and the land.

Q. Yes, if you struck her; is that right?

A. Well, I should think it was a little on the side.

Q. But you were headed right toward the land?

A. Well, she was going right for the land, and how she was facing I could not exactly tell you.

Q. Was the Henderson going for the land too, or coming from the land or going to it—the Henderson?

A. The Henderson was coming this way (indicating).

Q. Well, but by that you can't tell. Was she coming from the land or going to it?

A. The way it looks to me I think she come from the land.

Q. Oh yes; the stern of the Henderson was nearer the land than the bow, you think?

A. At the time of the accident?

Q. Yes.

A. I should think so because her stern was away off; I should think she was closer; that is my judgement.

Testimony of Phil Crossen before the Inspectors taken at the trial of Captain Jordan, stipulated to be copied into this record.

For the Libellant.

Examination by Inspector EDWARDS:

Q. What is your name?

A. Phil Crossen.

Q. And your occupation?

A. I was watchman.

Q. You were a watchman on steamboats?

A. Yes, sir. I was then on the Henderson.

Q. You were watchman on the Henderson on July 22nd of this year at the time of the collision between the M. F. Henderson and the Tug Samson on the Columbia River near Bugby Hole?

A. Yes, sir.

Q. Where were you at the time of the collision?

A. Right at the bow.

Q. Of what?

A. The steamer Henderson.

Q. You were right out on the bow of the Steamer Henderson?

A. Yes, sir.

Q. And you were there until the collision took place?

A. Yes, sir.

Q. And then after the collision took place where did you go?

A. I went up on the upper deck and stood up there a little while.

Q. That is, on the hurricane roof?

A. The upper deck, the main deck.

Q. And stood there awhile, and then what did you

do?

A. Then I jumped off on the oil barge.

Q. On to what?

A. On that oil barge.

Q. Oil barge 93. When did you go on the forward deck of the Henderson, what time?

A. When she hit. I stood there and watched her coming when she hit—

Q. Wait a minute. When did you go forward on the deck of the Henderson?

A. On the forward deck?

Q. Yes; where were you standing? What time did you go there?

A. I don't know just exactly what time it was. When I come down from the galley I wanted to see what was wrong—

Q. Wait a minute. What caused you to think there was anything wrong?

A. I heard three bells, or something like that. I heard them ringing gongs in the engine room.

Q. Oh, you heard danger signals down below?

A. Yes, sir.

Q. And you were where?

A. I was in the galley at that time.

Q. Now, go ahead and tell your story.

A. When I heard the gongs I walked first down along the main deck. When I got down to the bow, between the tank and the house, I stood there awhile, not very long; I seen the barges coming, so I looked out; I thought they were going to pass, and then they

hit. I was there when they hit and the boat,—the tank is a little off—I run up in the upper deck. I stood there a little while, I could not say just how long; it wasn't very long; when she listed over I jumped off.

Q. How long before the collision did you see a red and green light, or did you see any?

A. I never paid no attention. I just seen the Tug coming.

Q. You didn't see any lights?

A. I never paid no attention. I see a tug, but I didn't never notice the lights.

Q. Are you familiar with the terms and whistles, and port and starboard of steam vessels?

A. Yes, sir.

Q. How long have you been on the river?

A. Oh, I have been on the river probably a year altogether.

Q. All told?

A. Yes, sir.

Q. And in that time you have been what?

A. Deck boy, deck hand so far.

Q. And you know the port barge, the starboard barge and middle barge, and such terms as they?

A. Yes, sir.

Q. And the oil barge?

A. Yes, sir.

Q. Did you see the port barge, or the port rock barge of the Tug Samson strike the oil barge?

A. No, sir, it didn't strike the oil barge.

Q. Did you see the port rock barge of the Samson strike the stem of the Henderson?

A. No, sir.

Q. What did you see?

A. I saw the port barge strike the Henderson right by the house cavil there almost at the house.

Q. On what side?

A. Hit the Henderson on the port side.

Q. And did you see any other barge strike the Henderson?

A. No, sir, because the other barge was too far down the house; I could not see.

Q. But you are sure the port barge did not strike the bow of the Henderson, come down on it and the bow of the barge strike the bow of the Henderson?

A. No, sir, it struck the house cavil right by the house.

Q. Could you have seen that barge if she had struck forward on the stem of the Henderson?

A. Yes, sir.

Q. There would be no question about that, would there?

A. No, sir.

Q. But she came right down and struck?

A. She struck the Henderson right by the house cavil.

Q. Right by the house cavil; and about what angle relative to the two steamers was the Tug Samson? Was she coming in to the Henderson on an angle, or straight down the river?

A. Just coming at an angle.

Q. She was coming at an angle—towards each other?

A. The Henderson, I thought at first she was going to pass. That is the reason I ran out there to watch. When she began to hit I run back a little, and I heard the bells ring and I went upstairs on the upper deck. I stood up there a little while, and then when she began to break away—that is what broke her loose when she got down to the other end; she never broke loose when she first hit. I stood there a little while. I run up to the upper deck and I run down there and stood a little while, and that is what broke her loose.

Q. What time did you go on watch?

A. That evening at six o'clock.

Q. And you remained on watch, had remained on watch all night, had you?

A. Yes, sir.

Q. And you are familiar with the signals into the engine room?

A. Yes, sir.

Q. Did you hear any bells given?

A. I heard three bells. There was no hurrying going out just then. I heard three bells and I walked up along the main deck and downstairs, and I looked out there and I see the barges coming. That is all I could see. I think they had the search light; I don't know; anyhow, I could see the barges coming, and I walked up there, walked pretty close to the guard. I

thought they were going to pass. When they hit I went back against the tank and went upstairs and remained there a little while, not very long, and from there I jumped off when I seen her breaking loose.

Q. Were you on the oil barge when she anchored?

A. Yes, sir.

Q. Did you see them anchor?

A. I heard them anchor; I didn't see them.

Q. Where were you standing on the oil barge when she anchored?

A. On her stern.

Q. And what did you hear?

A. I heard the chains going down, I heard the hawsers.

Q. How long after you got aboard of her did this occur?

A. Dropping anchor?

Q. Yes.

A. It wasn't half a minute.

Q. She dropped the anchor pretty much about a half a minute after you got aboard of her?

A. Yes, sir, I should judge about that.

Q. And how long did she go on her anchors before she came up on them?

A. I don't think she went very far, because we were backing up for about a minute, I guess, before the collision, to my knowledge. Then when they hit, then it was quite awhile before the lines parted. I don't think she went the length of herself, the oil barge; because I looked out. I wanted to see where

we were. After the Henderson broke loose I wanted to see where we was, and we were drifting down stream.

Q. The oil barge?

A. Yes, sir. It wasn't going up stream at all.

Q. How far were you from the Oregon shore?

A. About one hundred and fifty or two hundred feet, I should judge.

Q. And you could see the outlines of the shore?

A. Yes, sir.

Q. Did you look to see?

A. Yes, sir.

Q. Why?

A. Why, I wanted to know where we was. I thought at first we were at Meagers, I knew it was shallow water along there, because I tow there a whole lot with steamboats, and I asked a fellow if it was that place, and he says we wasn't near that far. I saw an old fishery, whatever it is, some old dock, piling, ahead of us; I seen a little bluff, and I thought that was the little mill at Meagers. And I seen we drifted down a little, and we was going real slow, and drifted back; and I was on there about a minute, maybe two minutes when we begun to drift back.

Q. You are sure you were close over to the Oregon shore?

A. Yes, sir.

Q. Do you know anything about the range lights down there across that place?

A. No, sir, I do not.

Q. You don't know anything about the ranges, or anything?

A. No, sir.

Q. Did you hear whistles blown, or answered from the Samson and the oil barge?

A. I did, sir.

Q. What whistle did you hear?

A. Port whistle. I heard the barge blow one whistle, and I heard them answer. I was on the lower deck then. And about ten or twelve minutes—I first heard the whistles and it was ten minutes before they blew the other whistle, I guess.

Q. You heard the second whistle about ten minutes after you heard the first one from the oil barge?

A. Yes, sir.

Q. Then did you hear a whistle from the Samson?

A. No, sir.

Q. Could you hear it if she had blown it?

A. I probably could, I only heard one whistle. Just one boat blew one whistle.

Q. Oh, you just heard one boat blow one whistle?

A. Yes.

Q. You didn't hear the Samson's whistle at all?

A. No, sir.

Examination by Mr. SHEPARD:

Mr. Crossen, you were in the galley?

A. When I heard the bells.

Q. Yes, when you heard the bells. What bells were they, gongs or jingles?

A. Yes, three gongs.

Q. First one?

A. Then I heard one. They may have rang a jingle between. I could not say. I could not hear.

Q. First one gong?

A. Yes, sir, and I heard some more gongs right after.

Q. Then two gongs?

A. Yes, sir.

Inspector EDWARDS: Wait until he asks you the questions before you answer.

Q. Then you went down on the lower deck?

A. Yes, sir.

Q. On the bow?

A. Yes, sir.

Q. And where were the rock barges when you went down on the bow?

A. I stood there a while and I run up forward and I seen the rock barges coming quite a ways off, I could not judge how many feet, and they was coming pretty fast; so I run up to the guard at the end of the tank, the end of the boat, the side of the boat, rather. I seen them coming. When they hit I run back. They were scratching the house and I run on the upper deck. I stood up there a little while, maybe half a minute or maybe not that long. When she start —when the rock barges, after they had been hitting a while I run up on the upper deck, and she started to bust loose. When she busted loose I jumped off.

Q. How long was it after the barges hit before you were aboard the oil barge?

A. Oh, probably half a minute, I couldn't say.

Q. You said about a half a minute you were aboard the oil barge before you heard them let go the anchor?

A. Yes, sir.

Q. About how far did she travel after she let go the anchor?

A. I don't think she travel, because after they drop the anchor I look out to see where they were, and when the Henderson broke loose she was drifting down stream, and I wasn't on there a minute.

Q. Could she have traveled half way the channel of the river?

A. Could she?

Q. Yes. Was there time enough after she let go the anchors, before she swung on the anchor?

A. No.

Q. And if the rock barge had struck the oil barge before she struck the Henderson, could you have seen her strike?

A. I could have; yes, sir.

Q. If she had struck the stem of the Henderson before any barge struck the port side of her, could you have seen that?

A. I could.

Q. And if the port barge had struck the stem of the Henderson and the middle barge the port side of the Henderson you could have seen that?

A. I could have seen it then.

Q. There was nothing to obstruct your view of the

rock barges from where you were standing?

A. No, sir, there was a tank there but I was on the port side of the tank where I could see everything.

Q. The tank on the lower—

A. The bow, yes, sir, had a big ballast tank there three or four, four feet high, I guess.

Q. Between the house and the bits?

A. Yes, between the house and the bits, yes, sir.

Q. And how long before the barge hit did you see it? How far away was it?

A. I could not say just how long; maybe fifty or sixty feet, something like that; probably not that far.

Q. Taking this model for the Henderson and the Barge, will you locate that one just about the angle that she was coming when she struck?

A. Yes, sir. Just about like that (indicating). The Henderson was about there, and she just struck right about there.

Q. Did you notice any splintering of timbers when she struck?

A. Well, it started to bust the house; I heard that. The house all shook, and things like that, the windows all busted.

Q. You could not tell whether she struck above the guard or below the guard, could you?

A. No, sir, I could not tell.

Q. You say the searchlight was thrown on?

A. I think there was quite a little light on—searchlights from the Samson I guess. Some boat had a searchlight on.

Q. Could you see the middle barge?

A. I could when they was first coming there, I seen two barges; that is all I seen.

Q. Could you see how far the oil barge was from the shore?

A. About a hundred and fifty feet or two hundred; I should judge about one hundred and fifty.

Q. Was that the Oregon shore?

A. Yes, sir.

Q. You have been on vessels prior to the time you served on vessels in Oregon?

A. Yes, sir, I have been working about eight or nine—well probably ten years altogether steamboating.

Q. Before you came here?

A. Yes, sir.

Q. What kind of vessels was it?

A. Well, then I work in the river here about a year; I raft sailed on the Great Lakes, and I sailed on the Gulf Stream.

Q. Could you see whether there was a light on the port rock barge?

A. I could see none on there.

Q. You feel sure that the oil barge did not travel very far after the anchors were let down?

A. Yes, sir, I am sure.

Extract from testimony of Phil Crossen taken at trial of Captain Jordan.

Offered in evidence by Claimant.

Questions by Mr. MINOR:

Q. You went out on the bow of the Henderson, as I understand, when you heard these gongs?

A. Yes, sir.

Q. Now, I understand when you went out there you did not observe the lights on the Samson nor the lights on the Samson's barges?

A. I did on the Samson's barges. I didn't see no light on the barges. I paid no attention to the red or green light of the Samson.

Q. But you saw one light on one of the barges?

A. I just saw one light on one of the barges; I could not say what barge it was, but I don't think it was the port barge, because that barge was the nearest I could see, and I didn't see no light on there.

Q. You saw a light on one barge, though, did you?

A. No. Yes, I believe there was a light on the second barge. That is when they were far off, when I first went down there.

Q. I say you saw a light on one of the barges?

A. One of the barges; that is when I walked along on the upper deck and back down the stairs when I saw her coming, saw one light on one of the barges.

Q. That is when you went on the bow?

A. That is before I got on the bow.

Q. After you got on the bow did you see a light on one of the barges?

A. Just one barge, the furthest barge, the second or third barge over.

Q. You saw one?

A. One light.

Q. The barge on which that light was that you saw did not strike the Henderson or the oil barge either, did it?

A. No, it didn't seem to me. The barge that struck the Henderson didn't have no light on; I could not see none on it.

Q. You only saw two barges all together, I understand?

A. That is about all I noticed; yes, sir.

Q. And on one of those two there was a light?

A. Yes, sir.

Q. The barge which you saw strike the Henderson was the barge that didn't have any light on it?

A. That is the one that I didn't see no light on.

Q. And that was the one furthest in front, was it?

A. Yes, sir.

Q. Now, as soon as the barge struck, you then went—

A. (Interrupting) I was there when she struck.

Q. I say as soon as she struck you then ran from the bow of the Henderson up on deck?

A. The upper deck, yes, sir.

Q. And in less than a minute after she struck you had jumped on the oil barge?

A. Yes, in less than a minute I jumped off. I hesitate there a while, I waited a while, before I jumped off.

Q. The anchors on the oil barge were not loosed

or dropped until after you went on the oil barge?

A. I heard the chains rattling then when I got down there.

Q. Were they dropped before or when you got on?

A. They were dropped when I got down there.

Q. That is to say before? Had they already been dropped when you got on, or after?

A. No; they were dropping them when I got on there.

Q. They were dropping them when you got on?

A. Yes, sir.

Q. And you can't tell how far that barge drifted after you got on?

A. No, it could not have drifted very far because right after the Henderson broke loose I went to see where we was. I went on the starboard side of the barge, and I looked to see where we was. We wasn't coming up stream. We kind of stopped then, and I stood there a little while to find out where we was, and we was drifting down stream a little.

Q. Now I understand you that when this barge struck the Henderson, that you saw strike the Henderson, it did not break the Henderson loose from the oil barge?

A. Not exactly, because I had time to run up on the upper deck and I stood there a little while, not very long, and then jumped off. And I saw her busting loose when she swung around, because the bow swung out first.

Q. You didn't notice but the one stroke at that time?

A. The what?

Q. You didn't notice but one shock or stroke; that is all you noticed, was it?

A. I only noticed one barge strike.

Q. You only noticed one barge strike?

A. The port barge.

Q. You felt only one shock?

A. Yes.

Q. And the barge which you saw strike was the furthest in front?

A. It was the port barge. It wasn't the furthest, I don't know whether it was the furthest or not; it was the port barge, the one I could see.

Q. It was the one furthest in front, wasn't it?

A. No, sir; it was the port barge. I don't believe it was the furthest in front, but the way they were coming it might have been.

Inspector EDWARDS: There were three barges.

Mr. MINOR: He only saw two.

Inspector EDWARDS: I know, but we will give him three. There is no dispute on that. Here is the port barge, here is the middle barge, and here is the starboard barge. (Illustrating.)

WITNESS: Yes, sir.

Q. Now, you didn't see any barge pass you when you were on the front of that boat before the other barge struck you, did you?

A. They all passed; they were all going like that.

the three barges; they just come that way (illustrating). The port barge is the one that hit the Henderson like that. All the rest of them were out that way. I was standing there. I could see there was no barge on that side at all, and that port barge hit the house cavil.

Q. Now, a while ago I understood you to say that that was the barge which was the furthest in front of the Samson?

Inspector EDWARDS: No, I don't think he testified to that, Mr. Minor.

Mr. MINOR: That is what I understood him to say.

Inspector EDWARDS: Go ahead.

A. The way they come it was the furthest barge I could see. That is the reason I know they hit first, because the way they come at an angle. I seen the barge hit first.

Inspector EDWARDS: Now you said there the furthest barge, just as Mr. Minor said you said.

Q. The one furthest in front was the one that hit the Henderson, wasn't it?

A. No, sir. I said this one here. It may have been the first, if they come straight, but the way they come at an angle, I said the port barge.

Q. Well, it was the one which seemed to be furthest in front as you were looking at them?

A. Yes, sir.

Q. As you were looking at them the barge which hit the Henderson was the one furthest in front?

A. It didn't look furthest in front. It is the only one I could see when they passed me, because I could not see for the house. See?

Q. Could not see for what house?

A. For the house, because I was standing, walked back a little. I only seen them coming; I could not see the center barge; I only seen the port barge when they got real close.

Q. Let me get that straight. I don't understand you or you don't understand me. I understand when the Henderson was struck, you were standing right on the stem?

A. I was standing, I said, on the bow, right by the tank.

Q. Were you standing in front or behind the tank?

A. I was standing behind the tank.

Q. How far was that now from the stem?

A. I don't know. It was probably fifteen feet, or something like that, twelve feet.

Q. Twelve or fifteen feet from the stem?

A. From the stem, yes, sir.

Q. And how high was that tank?

A. About four, or four and a half feet.

Q. You could see over it then?

A. I could see over it, but I was at the end of it and on the port side when I seen the barge was coming.

Q. You were at the end of it on the port side?

A. Yes, sir.

Q. And you saw the barges coming?

A. Yes, sir.

Q. And you saw only two barges?

A. That is all I noticed from where I was.

Q. Now, as I understand when you saw those barges coming, when you first saw them you thought they would pass?

A. I thought they would pass, yes.

Q. And you stood there watching them coming by the barge which seemed to you to be the furthest in front struck the Henderson?

A. It didn't strike the Henderson; I said the port barge struck the Henderson.

Q. I say was that the one which appeared to you to be furthest in front which struck it, or not? I mean furthest in front as it came to you?

A. No; the port barge struck it.

Q. Was there one still further in front that you saw?

A. I saw the way the barges were coming ahead all right, or coming at an angle. It may look just even and the port barge hit first.

Q. As I understand then these being two barges coming down this way (illustrating with models), one sticking, as it shows, fifty feet in front, when they came to you they seemed to be coming pretty near on a line?

A. I said just about like that?

Q. Right on an angle to you?

A. Here was the port barge just the way they

come, just about like that, and I could not see this barge. I stepped back when they got real close, I stepped back. I could see them coming. I could see the light on that barge. The first barge I couldn't see a light on, and then I stepped back and I could not see on account of the house.

Q. But you saw a light you thought on that barge (indicating)?

A. Yes, sir.

Q. So in your judgment the barge which struck the Henderson had no light on it?

A. No, sir.

Q. And the barge which was next to it did have a light on it?

A. Yes, sir; I just noticed one light.

Q. And you thought that was on the barge next to the one that struck?

A. Yes, sir.

Further examination by Inspector EDWARDS:

Q. But you are positive as to the barge that struck the Henderson?

A. How?

Q. You are positive as to the port barge striking the Henderson?

A. Yes, sir; from where I could see. That is the only place I saw on account of that house; and it looked like to me that was the barge that hit, the port barge.

Q. And that was the nearest barge to you?

A. Yes, sir.

Q. And you thought she only had two barges?

A. That is all I could notice from where I was.

Q. That is the port barge and the one leading forward?

A. Yes, sir.

Q. That is the two barges you thought she had?

A. Yes, sir.

Q. You didn't know she had a barge on the starboard side?

A. No, I could not see it.

Q. You could not see it?

A. No, sir.

Q. So you took it for granted that she only had two barges, and you supposed the light was on the barge ahead of the one that struck the Henderson?

A. The middle barge.

Q. The middle barge?

A. The furthest away.

Q. The furthest away; but the nearest barge to you is the one you—

A. (Interrupting) Didn't see no light on.

Q. Didn't see any light on; the one that struck the Henderson?

A. The one that struck the Henderson.

Q. And otherwise it was the port rock barge of the Samson you saw strike the Henderson?

A. Yes, sir.

Q. And the barge leading ahead of that you say you didn't see strike the Henderson?

A. No, sir.

Portland, Oregon, Wednesday, January 15, 1913,  
9:30 A. M.

In Re Steamer Samson.

Before Mary E. Bell, Special Examiner.

JOHN OSTERVOLT, a witness called on behalf of the libellant, having been previously sworn, testified as follows.

Direct Examination.

Questions by Mr. ERSKINE WOOD:

Where do you live, Mr. Ostervolt?

A. Sir?

Q. Where do you live?

A. Oh, I live 1060 East 17th Street North.

Q. And you also live part of the year on Puget Island?

A. In summer I live on fishing ground, Puget Island.

Q. How long have you lived there?

A. I have settled Puget Island 1884.

Q. And you have lived there ever since then during the fishing season?

A. Yes, and all the time up to ten years ago.

Q. Are you the Ostervolt for whom the seining ground there was named?

A. Yes, sir.

Q. Ostervolt's seining ground—Ostervolt's place.

How long have you fished there?

A. I fish all the time I was there, about 29 years.

Q. What sort of fishing?

A. Moonlight fishing in the beginning, and then 18 years ago I started in seining.

Q. Do you know what the bottom is like in the river there?

A. Yes, been pretty near all over in there, in to 65 feet.

Q. What do you mean?

A. Sub-marine diving. I had to do my own diving six or seven years; had to go all over picking up snags out of the bottom.

Q. What were you cleaning the bottom of the river for?

A. Drift that settled in the sand and stayed there, and then when we come drifting around with our nets, it tears us all to pieces, and we had to clean up before we could use it to advantage.

Q. So you had to put on a diving suit and go down and clean the bottom of the river—locate snags?

A. Yes.

Q. What is that bottom like?

A. It is coarse sand out in the middle of the river—coarse sand.

Q. Out in the middle of the river?

A. Yes, from the harbor line, you know. That is from 25 feet out. 25 feet, of course, would be the harbor line; from there out, you know, it is coarse sand.

Q. Do you mean 25 feet out from the shore?

A. 25—from the depth of the water; 25 feet depth.

Q. What is it inside of the 25 foot depth?

A. That is inside the harbor line, what we call it.

Q. What kind of bottom is it there?

A. Some mud and sediment as to that.

Q. A little more muddy?

A. Yes, and sediment.

Q. What other means have you of becoming familiar with the bottom there? What other means have you had? Have you driven piles and made fish traps, and things like that?

A. Yes, I been in that kind of business for—shortly after I started seining, or before I started to seine, in fact; about 24 years ago since I started in to trap.

Q. When you say you are familiar with the bottom, do you mean on both sides of the river?

A. Yes, sir.

Q. You are familiar with it, then, over in the neighborhood of Hunt's Mill Point?

A. Yes, I had traps all over the neighborhood there.

Q. Have you had any experience as to navigation?

A. Yes, I am a master mariner from England.

Q. You hold a master's mariner license from England?

A. Yes, sir, I got it here if you wish to see it.

Q. How long were you a master mariner?

A. I am that for life.

Q. I know; but how long did you act as such?

A. I was acting master two years.

Q. And before that, how long were you at sea?

A. Mate, second mate—about 15 years before I

quit.

Q. You were 15 years at sea?

A. Yes, sir.

Q. What were your capacities before you got to be a master mariner?

A. From cabin boy up to second mate and mate.

Q. What kind of ship?

A. Steamer; mostly steamer.

Q. Mr. Ostervolt, is this bottom that you described in the river there good anchorage ground? Is it bottom that would hold an anchor well?

A. Yes, sir.

Q. Or not?

A. First rate. First-class holding ground, as we call it. When an anchor gets in the bottom, it is a good holding ground as we call it.

Q. Have you heard the testimony in this case about the oil barge being anchored, and the testimony of the other side, that she may have dragged them 1500 feet?

A. I heard part of it, yes.

Q. Have you heard that?

A. I heard part of it.

Q. From your knowledge of that bottom, and your experience as seaman and navigator, and on the supposition that the oil barge was going in the neighborhood of three miles an hour, or possibly three and a half at the time of the collision, or just before the collision, and that the Henderson had been backing for from half a minute to a minute, and then that all

the tow lines and breast lines which you have heard described were parted, and that both anchors were let go approximately thirty seconds after the collision, do you think that the oil barge would drag her anchors on that bottom?

A. Not—

Q. I should say approximately 40 fathoms of chain out.

A. In what water?

Q. About 40 fathoms of chain out.

A. What depth of water?

Mr. MINOR: I guess he knows the depth of the water there.

Q. Well, in the water say about 500 feet or something like that, off Hunt's Mill Point.

A. How many feet?

Q. Four or five hundred feet off Hunt's Mill Point. I don't know exactly how far.

A. 200 feet from that old wreck of a trap there is 40 feet, and it goes out, you know, until it gets into 400 feet, and then deeper into 500 feet. I should judge that 500 feet out, there would be about 50 feet of water.

Q. About 50 feet?

A. 500 feet out from the old wreck of a trap there.

Q. The old trap near Hunt's Mill Point?

A. Yes.

Q. You judge the depth of the water what?

A. 50 feet.

Q. 50 feet?

A. Yes.

Q. If the collision occurred 500 feet out from the point, and the oil barge ran toward the point for about 30 seconds, and the anchors were let go, 40 fathoms of chain, in your opinion would they hold her?

A. Yes.

Q. Explain how the current runs through that part of the river, Mr. Ostervolt, at the end of the June freshet in July, with a nine foot tide, about half ebb.

A. What you call a nine foot tide?

Q. I mean a nine foot tide at Astoria, and it had reached the stage of about half ebb. Do you understand me?

A. Yes, I understand that, but does this apply to this location?

Q. Yes, I am trying to describe conditions as they existed that night, the end of the June freshet; that is the 22nd of July, 1911, and there had been about a nine foot tide at Astoria, and it had reached the stage of half ebb.

A. I don't understand how it could be nine-foot tide down there, neap tide, plumb neap for spring—

Q. I mean a nine-foot tide at Astoria, and it had got to the stage of half ebb, what would the current be up there in the river?

A. They would be just about the same as ordinary, pretty near, at that stage of the tide.

Q. How does the current come around Bugby—in the Bugby Hole?

A. Comes down Westport Channel and turns in

Bugby Hole.

Q. From Bugby Hole how does it set down the river?

A. Well, the current there around the point, the Oregon shore turns the channel, you know.

Q. You mean that the channel strikes off Bugby Bluff?

A. Yes, that makes a turn.

Q. Then is thrown off from that bluff and goes straight down the river. Is that what you mean?

A. Yes, and goes in toward the island more.

Mr. MINOR: What island?

A. Towards your right.

Q. At that stage of the water is there any suction to amount to anything down Clifton Channel?

A. At half tide? You mean at half tide?

Q. I mean at half tide.

A. It sucks in three hundred feet out; from one to three hundred feet out.

Q. From where? From one to three hundred feet out from where?

A. From that trap: the wreck of that trap.

Q. The trap at Hunt's Mill Point?

A. Yes. It would just about touch the point of Tenas Illihee.

Q. It would just catch the point of Tenas Illihee?

A. Yes. Perhaps go a little inside of it, down Cook Slough side of Tenas Illihee point.

Q. What is Cook Slough?

A. Cook Slough goes down into Prairie—you call

it Prairie, you know, but it is not Prairie.

Q. From a point—from 100 feet out from the old trap to 300 feet out, it would hit about the point of Tenas Illihee Island. Is that right?

A. Yes; the bearing changes every little space you go out, you know.

Q. I show you this chart, marked "Libellant's Exhibit 17." This (indicating) is the head of Tenas Illihee Island; this is the foot of Puget Island; this is the Grove Slough; this is Hunt's Mill Point—Hunting Island lights; Hunting Island Range; Bugby Light; Coffee Island.

A. This is Hunt's Mill Point? (indicating.)

Q. Yes, that is Hunt's Mill Point. The scale of this chart is 1-3/16" to the thousand feet.

A. I don't see any date on it.

Q. No, I don't know about that. Mr. Ostervolt, did you see the Henderson the next morning after the accident?

A. Yes, sir. I saw the wreck down the Tenas Illihee Point. I found it afterwards.

Q. About where on this chart would you locate the Henderson, as you saw her the next morning?

A. (Indicating.) About; the next morning at my place I looked down the river just about that way. That is my line of vision, you know.

Q. About where do you place the Henderson as she lay there?

A. I would place it about a little inside of that (indicating.) That is the line. That was southeast

from the point by compass.

Q. Does this point (indicating) represent about her position?

A. Yes; a little inside, according to my position from here. You see, sight here, along here, you know, and this island point (indicating) you know, was off about that much; in line with the wreck, here on my net rack.

Q. And you think that would be about it? (indicating.)

A. Pretty close, yes.

Q. That is the approximate point?

A. Yes; about southeast from that point you see here—from Tenas Illihee point.

Q. It is somewhere near the point marked "M"?

A. Yes, sir.

Q. Mr. Ostervolt, from your knowledge of the currents there if the collision occurred somewhere in the neighborhood of five to three hundred feet, we will say, off Hunt's Mill Point, where in your opinion would the Henderson have drifted?

A. It is my opinion at 400 feet she would miss the point, and at 500 feet she would come about where she lay.

Q. About where she lies?

A. Yes, sir.

Q. Captain Jordan has testified that in his opinion the collision occurred at this point here, marked "K." If it did occur there, would it have been possible, in your opinion, for the Henderson to have

drifted across the channel of the river to the point marked "M" where you saw her?

A. No, she would never get there; not by drifting, possibly.

Q. Where would she have gone?

A. Gone right down here. (Indicating.)

Q. Right down the range?

A. Across the range to Oregon; she would have missed the heaviest current in the channel, and the weaker current on the inside would have pushed her into the island more.

Q. In your opinion would have been the Puget Island side of the range?

A. Down there. (indicating.)

Q. Down on the old sand bar?

A. Sand bar; on top of this old trap, right here. (Indicating.) There is a trap wreck right down here, you know.

Q. How do you put out your seine? Tell me, if you can, without the chart—if you can.

A. I come up the channel to lay out; up the Westport Ship Channel; then I lay out from the Oregon Side with the net, and go in and hang on with two launches, one launch on each side of the net until we come down here. (Indicating.)

Q. Opposite Grove Slough?

A. No, right down below Grove Slough. My beach is here.

Q. Until you get to the head of your beach?

A. Then hand to a man with horses on the beach,

and they take it in hand.

Q. About how far above Grove Slough do you set out?

A. Three-quarters of a mile—more; close to a mile; we go right up there (indicating) you know.

Q. And you commence to pull in near the head of your seining ground, just above Hunt's Mill Point?

A. Above that (indicating). Hunt's Mill Point you know, is below us; right about there (indicating) abreast of there. This is north and south here (indicating).

Q. Do you notice any tendency to suck your net down Clifton Channel?

A. No. There is a portion of the current of the river here. (Indicating). If she misses this point, she slants right over towards that (indicating).

Q. The current?

A. Yes. She goes in over this way then. (Indicating.) After she passes—

Q. After the current reaches a point about a thousand feet above Hunt's Mill Point on the Oregon side, it commences to shift over towards Puget Island?

A. Yes, more than a thousand feet.

Q. More than a thousand feet?

A. Yes, it is up here.

Q. About how far?

A. Here is the turning point, you know. After the current—you see right in here (indicating) you know there is an eddy, and there the two waters press against one another and make a tide rip; that is power

against power makes that eddy, and forces the river around there. That makes it about that point there, you know. (Indicating.)

Q. That would be about a thousand feet above—a little over 1500 feet. I want it in the record, so I will restate it to you: You mean that the current coming down the main river from Coffee Island strikes Bugby Bluff and about 1500 feet above Hunt's Mill Point it commences to change over toward Puget Island.

A. Yes. That makes the pressure there.

Q. How deep is the water across Clifton Channel at low water, we will say?

A. Well, it is shallowed up so much later years.

Q. At that time, 1911?

A. It is the same this year, last year too; about abreast here to the Oregon Lumber Company's dock, the dumping ground for the logs; there is a little small channel goes down the island here, about 100 feet wide, that is 16 feet deep.

Q. How wide is that channel—100 feet?

A. 100 feet wide; 16 feet deep.

Q. That is right next to Tenas Illihee Island?

A. Yes. Close in there, and then there is another channel on the south side of the slough, about similar situated, you know, the deepest water shortly out from low water mark, and on the flat between the two channels it varies from nine to twelve feet.

Q. And both the channels are very narrow, and the flat is nearly the whole width of the channel, is it?

A. Yes, sir.

Q. What is the average depth of the water at low stage of the water, down the main river, Mr. Ostervolt?

A. I haven't sounded it lately, but two years ago after they finished dredging there, it was 30 feet; I guess filled up some. I heard going to dredge again this spring.

Q. That is down here on the bar?

A. On the shore here; from Duncan Slough down to deep water down below.

Mr. MINOR: Is Duncan Slough the same as Grove?

A. No. This is Grove Slough (indicating) and this is Duncan Slough. You see this is the slough that they was trying to dam there once, and missed it.

Captain SHAVER: Dam, you say?

A. Tried to dam it and make a continuous beach down to the end of my claim; spent about sixteen thousand dollars on it and failed; couldn't do it.

Q. Mr. Ostervolt, Captain Jordan thinks the collision occurred about 800 feet off Puget Island Shore at the point I have already shown you, marked "K"—about 800 feet off the shore. What is the depth of the water there, about?

A. That would be between 40 and 50 feet there, at 800 feet out.

Q. And is it about the same depth from there, diagonally northwest across the river along the course which the Henderson drifted, or not?

A. No. You see as soon as you get over there (indicating) you shoal right away.

Q. I mean for a space of several thousand feet on the course that the Henderson drifted it still remains deep water, doesn't it?

A. It remains deep water towards the shore down there; that is, it is deeper, a couple of hundred feet further out from this bank than it is right there. The deepest water is about 65 feet here.

Q. I want to know just this: If the Henderson drifted from the point marked "K" to the point marked "M" would she not have been in 30 or 40 feet of water until she struck this shallow over here?

A. Oh, yes, yes.

Q. And how far would she have been in that deep water?

A. She would have been in deep water I guess about three-quarters of a mile, probably that. About a mile-and-a-quarter from there to there (indicating) and down in that deep water would be about three-quarters of a mile until you get in that shoal there. (Indicating.)

Q. You say you have also fished with a drift net?

A. Yes, sir.

Q. Where did you use to set it out?

A. Set it out right in front of my house and up and down here. (Indicating.)

Q. Set it out about in front of Grove's Slough?

A. Yes, and in front of me and in front of every where.

Q. And drifted down the river how far?

A. Down to Skamokawa some times; some times we used to start to drift and go right to Meagers.

Q. Did you set it out some times on the Oregon side of the river?

A. Yes, sir.

Q. How near over to the Oregon side of the river would you go, setting it out?

A. I set it out, oh, just missing this old trap there, and lay here over slanting towards there.

Mr. SNOW: Towards Puget Island.

A. And come down the river, and just about miss this point.

Q. Setting out from Hunt's Mill Point, then, and extending diagonally toward the Puget Island side, you drift down toward the shallow in Tenas Illihee?

A. Yes, sir.

Q. Then how would you drift?

A. Well, right along there to this other shore.

Q. Down the main river?

A. Yes.

Q. Your net never was sucked down Clifton Channel, was it?

A. No.

Questions by C. E. S. WOOD:

Q. Mr. Ostervolt, last night just before the court adjourned I asked you to stand up and answer a question of the depth of these nets, and if I remember correctly, you said about 40 feet.

A. 45 feet.

Q. What?

A. 45 feet, I said.

Q. Now, I don't understand whether that is the depth of a drift net or of your seine.

A. No, that was the common drift net, the deep drift net.

Q. A deep drift net. Is that the kind they use down there?

A. Yes, that is one of the deepest they use.

Q. And from that depth up to what do they go? How much shorter, how much less deep?

A. All sizes, surely; even the little divers that they use, only about ten feet deep.

Q. Use all degrees. Is that net pretty straight up and down in the water, or how deep in the water would the lower edge be of a 45 foot net. I suppose there is some curve to it, is what I am getting at.

A. I had in mind when I was saying that, that it would fish in that deep water—that they would go that deep in the water as they stand ready to fish, stand fishing in the water.

#### Cross Examination.

Questions by Mr. MINOR:

Mr. Ostervolt, how long since you have drifted down there with nets?

A. With gill nets?

Q. Yes.

A. About 18 years.

Q. Haven't done any drifting for 18 years?

A. No.

Q. Since that time you have confined your fishing to seining, have you?

A. Yes, sir.

Q. And in seining, you use two boats, do you?

A. Two boats, two launches, two seining skiffs.

Got three nets, four nets sometimes, change it off.

Q. How long is your seine?

A. We got about 1200 feet, 200 fathoms.

Q. And how deep is your seine?

A. It is 250 meshes, 5 inch mesh, deep. No, six inch mesh deep. Supposed to fish in 16 fathoms of water.

Q. 16 fathoms of water. Now, is your net altogether below water? None of it sticks above water when you are seining?

A. Sir?

Q. None of the seine sticks above water when you are seining?

A. No. But one side floats in the water, and the other side is close to the bottom.

Q. How does that seine run when you run in water, at an angle, or up and down?

A. How do you mean by run?

Q. I mean does it hang straight up and down perpendicularly?

A. The meshes spread, you know.

Q. Does it hang vertical in the water, or at an angle?

A. So much slack allowed for in fishing, so that

the lead line will go to the bottom all the time.

Q. So the lead line will go to the bottom all the time?

A. The lead line goes to the bottom all the time.

Q. Is the top of the seine at the surface of the water?

A. On the surface, yes.

Q. What I want to know, Mr. Ostervolt, is whether the bottom of the seine, when you are seining, is directly under the top or not?

A. They are hung that way, has to be parallel to one another. The lead line is supposed to be as far forward as the cork line.

Q. The lead line is on the bottom, and the cork line on the surface?

A. Yes, and they are supposed to go along just one as fast as the other, to be perpendicular.

Q. Perpendicular. That is what I wanted to get at.

A. Yes.

Q. During what season of the year do you seine now?

A. I start in the first of May, and quit the 25th of August.

Q. 25th of August. Now, this chart indicates, as you will see here, that the deepest water along from the point where you turn the island—you see where I mean by the point you turn the island (referring to Libellant's Exhibit 17).

A. Yes, where you turn down channel.

Q. Then from a point opposite Bugby Hole light, the deepest water is toward the Oregon shore?

A. Yes, sir.

Q. And some places it runs as deep as 100 feet, seemingly?

A. Yes, sir.

Q. Is this chart in your judgment, right, as far as soundings?

A. As far as my experience is, it is, for right in here is the deepest water we have. We have as much as—

Q. (Interrupting) This chart indicates that from the point of the island, there is a stretch of water more or less shoal, extending all the way down to the lower point of Puget Island, and markedly increasing in width, nearly all the way down. You notice that on this chart?

A. Yes.

Q. Is that your idea about how the channel runs?

A. No, this chart is too old for the new channel.

Mr. ERSKINE WOOD: This chart is 1900, I notice.

A. Lots of changes since then.

Q. Now, here is a chart, I call your attention to Claimant's Exhibit A, and this purports to be corrected up to 1911. Now, in this chart they give the depth of water in fathoms instead of in feet, you understand?

A. Yes, sir.

Q. You understand fathoms?

A. Yes, sir.

Mr. ERSKINE WOOD: This says "light beacons" and something corrected. This other word, I don't know whether it covers depths or not.

A. They are all right in at Rugby Stake light. It used to be here at this bluff here, and they moved it down a thousand feet or so.

Q. This range light now comes down and strikes the Rugby Hole light?

A. No, only after you get down to here (indicating). You see this range light here goes around in here, goes ashore. This range here was run to the Hole here, and scientists took it up the mountain to guide the Clatsop digging here.

Q. And you say the light was moved down the river?

A. Yes, sir.

Q. A thousand feet?

A. Yes, sir.

Q. When was that done?

A. Three or four years ago, I guess.

Q. And that light is not on the Hunting Island ranges at all?

A. No, cross one another down here abreast this island here.

Q. Cross about abreast this slough you call Duncan Slough?

A. Yes, sir, somewhere around there, or a little below.

Q. A little below Duncan Slough?

A. Yes. Now, this light and that range light (indicating) would come to the island. That is why in turning this point they keep down through the middle until they pick up the range light down below here.

Q. So the water is shallow on the island side how far down?

A. Shallow from here down.

Q. Just below what you call Duncan Slough?

A. Yes, down.

Q. Down to the point of the island?

A. Yes, and further down.

Q. And above the point of that slough—above the upper point of that slough, up to the point of the island?

A. Just about what it used to be all the time.

Q. Just about what it used to be?

A. Yes.

Q. Now, turning again to Exhibit 17, I notice on this chart, that there is shoal water, comparatively shoal water running from the point of the island all along Puget Island shore. That is, shoal compared to the water towards the Oregon side.

A. Yes.

Q. That is correct?

A. Yes.

Q. And those depths you think about correct, as given on this map now. You say they haven't changed?

A. Yes, have changed lots.

Q. I thought you said hadn't any change.

A. Not from there to here (indicating).

Q. Changed here, the water?

A. This has been dredged down. The channel goes further here than it used to be.

Q. Further over to the Puget Island side?

A. Yes.

Q. From what point down?

A. From here it turns over that way.

Q. From opposite what we call Grove's Slough here.

A. Somewhere in that neighborhood.

Q. From about opposite Grove Slough, the water is deeper than it used to be?

A. Yes, sir.

Q. And where, you said, is the channel about 30 feet deep? Coming down the river from what point?

A. It was after they was finished dredging from here down.

Q. Well, that is from a point?

A. From Duncan Slough, there is where they started in.

Q. That is from a point below Duncan Slough?

A. Well, in that neighborhood.

Q. At a point, say, about 500 or 1,000 feet below Duncan Slough on down is where it is shoaler again? Is that right?

A. A thousand feet—

Q. (Interrupting) I should say that point was something like a thousand feet. I don't know, be-

tween 500 and 1000 feet.

A. This chart is entirely wrong.

Q. This chart is entirely wrong?

A. It looks to me by the survey we made.

Q. This chart, you think then, is entirely wrong, according to your recollection of the country?

A. From our survey. There is the line of my land coming in here, and it goes up a quarter of a mile. That is 1320 feet to the middle of this slough. It might be a dislocation of the slough.

Q. Now, Mr. Ostervolt, there is a seining ground that you have there running off here from about abreast of Grove Slough clear on down to Duncan Slough and lower, isn't it?

A. No, I can't cross that slough with seines.

Q. Runs to Duncan Slough?

A. Yes.

Q. On that seining ground, the water is comparatively shallow?

A. No, it runs down from here—from nothing down into 65 feet of water.

Q. I understand runs into 65 feet of water, and how far from the shore is the water—how deep is the water when you get 200 feet from shore?

A. 20 feet.

Q. 20 feet?

A. Yes, that is from mean low water.

Q. And when you get 30 feet out—when you get 300 feet out, how deep is the water?

A. About 30 feet, goes down gradually that way.

Mr. ERSKINE WOOD: What point are you talking about?

Mr. MINOR: I am talking about opposite the seining ground.

A. (Indicating) This is one bar, and this is another. It gets shallow here and deeper here.

Q. Gets deeper the upper part of your seining ground than the lower part?

A. Yes.

Q. 200 feet from the shore, at the lower part of your seining ground, how deep is it?

A. About 16 feet.

Q. 300 feet from shore how deep is it?

A. 24 feet, something like that.

Q. And 500 feet from shore, how deep is the water?

A. That will go into about 30 feet.

Q. And 800 feet, how deep is the water?

A. That will go down there into 40 feet; that is, abreast of here.

Q. I understand that is abreast of the lower end of your seining ground. You say it runs down to Duncan Slough?

A. Yes, the deepest water in the channel there.

Q. Consequently, Mr. Ostervolt, the bottom of the river, really slopes off from Puget Island shore opposite your seining ground all the way?

A. All the way to deepest water.

Q. The deepest water is about how far from the Oregon shore?

A. The deepest water, I think, is about 800 feet from here.

Q. You mean about 800 feet—you say the deepest water is at the upper part of your seining ground. How far is the deepest water from the Oregon shore?

A. The deepest water would be about, close to 1,000 feet, I guess, from the Oregon shore—from this place here.

Q. You think it would be about 1,000 feet from Hunt's Mill Point?

A. Something like that, but there is a big flat there; about the same depth in the middle of the channel.

Q. When you get above that now, say, at the upper end of your seining ground, which I believe is Grove Slough, how near the Oregon shore is the deepest water?

A. About 150 feet out from the eddy, as we call it.

Q. That is opposite the upper end of your seining ground, the deepest water is about 150 feet from the Oregon shore.

Mr. ERSKINE WOOD: From the eddy, he says.

A. From the eddy. Here is the eddy. That is mean measurement of the chart, what we call 25 foot radius.

Q. When you go on down further to Hunt's Mill Point then the deepest water, you think, is about 1,000 feet off from the Oregon shore?

A. Yes, it misses this point, you know (indicating).

Q. And when you get down to the point opposite the point of Tenas Illihee Island, the deepest water is where?

A. Right over here (indicating).

Q. Still on the Oregon shore there?

A. On the Washington shore.

Q. On which side of the range lights is it, Hunting Island Range lights—the deepest water? Which side of the range lights?

A. I think the range is made to suit the water, or the water is made to suit the range.

Q. I am not asking you that. I want to know on which side of the range light, in your judgment, is the deepest water.

A. I think the deepest water is right on the range.

Q. Now, is the channel wider down there on one side of the range lights than on the other?

A. No, I think the range is about in the center of it.

Q. Now, I understood you to say that in your judgment the water began to change its course about a thousand feet, or perhaps a little more, above Hunt's Mill Point, and begins to set over from there towards the Puget Island shore.

A. Yes, leading that way (indicating).

Q. There is a shoal, however, all the way down the Puget Island shore, above the point of the island?

A. Shoal water?

Q. Yes.

A. Yes.

Q. And that water is getting shoaler and shoaler there all the time, isn't it?

A. No, not as I understand it. Not inside here (indicating). Not in the channel side of it. I think the channel—well, I am sure of it. I know it by my own place; this channel the way she is turned is washing away my own place here, cutting deeper.

Q. A sand bar down on the point of Puget Island getting larger and larger?

A. Yes, going down.

Q. And getting further over towards the channel all the time?

A. Well, there is deep water right along the sand bar there, some eddy from here. This water comes here, and this water here strikes one another, and makes a tide rip here, and taking in that sand bar alongside of it (indicating). Still filling in, too, going down.

Q. So the sand bar is getting bigger and bigger all the time?

A. Yes, going down the river.

Q. And tending further and further down the river, and further and further into the channel?

A. No, I don't think so, don't extend any further into the channel.

Q. From Hunt's Mill Point, the Oregon bank of the river seems to change its course. From about the Hunt's Mill Point, the Oregon channel seems to change its course, and go further towards the west. You notice that, do you not?

A. Close in here.

Q. The Oregon bank, I should say, seems to change its course and go further towards the west.

A. Yes, building right into the slough to make it bigger.

Q. I say, the Oregon shore runs more westerly, does it not, after you pass Hunt's Mill Point?

A. Turns down Clifton way, yes.

Q. Does the bank turn down Clifton way?

A. Yes.

Q. Now, I understand you to say that there is a channel in the Prairie Channel; there is a channel about 100 feet wide along Tenas Illihee Island?

A. Yes, sir.

Q. And that that channel is about fourteen feet deep?

A. Sixteen.

Q. And there is a similar channel near the Oregon shore?

A. Yes, sir.

Q. About the same depth?

A. Yes, sir.

Q. And that the water between the two channels runs from nine to twelve feet?

A. Yes, sir.

Q. If the water gets gradually deeper towards the Oregon shore, the bottom of the river must incline towards the Oregon shore, must it not?

A. Which part of the river do you mean?

Q. Up here at the upper part here, opposite the

upper part of your seining ground?

A. Yes, sir.

Q. I understand the water gets deeper and deeper towards the Oregon shore until you get two-thirds of the way across the river?

A. Certainly.

Q. Then the bottom of the river must incline toward the Oregon shore.

A. Yes, then it raises up towards there (indicating), again gradually.

Q. Now, if you take and throw an anchor on that kind of bottom, inclining toward the Oregon shore, wouldn't it drag, in your opinion? On the bottom?

A. On the bottom?

Q. Yes.

A. In how much water, or in any water?

Q. Wouldn't the anchor drag on the bottom?

A. It all depends on how much chain you give it.

Q. On how much chain you give it?

A. Yes.

Q. Suppose you would throw the anchor out, and of course the chain runs out until the anchor stops the boat, doesn't it?

A. Sir?

Q. The chain will run out until the anchor stops the boat, will it not?

A. No, not necessarily. You can break the drag. You can stop the chain any time.

Q. If you throw the anchor out anywhere along there, and the anchor went out as much as 40 fath-

oms, would that anchor drag on that inclined bottom, do you think?

A. It would hold anywhere in proper depth of water. The proper depth of water as we used to figure it, is if we drop the anchor in 40 fathoms of water or 40 feet of water, we let out 45 fathoms of chain.

Q. Then that would make, the 40 fathoms of chain would be 240 feet, wouldn't it?

A. Yes.

Q. Or, 45 fathoms of chain, rather, would be about 270 feet, wouldn't it?

A. Something like that.

Q. Now, why did you let—why would you run out 45 fathoms of chain, if you drop in 40 feet of water?

A. Because you must have that much play to make the anchor hold.

Q. To make the anchor hold?

A. Yes, that used to be the usual rule we say, you know.

Q. And that being the case, when would the anchor hold? Would it hold as soon as it struck the bottom?

A. It will hold as soon as it get hold in the bottom.

Q. As soon as it got hold on the bottom?

A. Yes.

Q. How far would it drag on the bottom before it would catch hold on the bottom?

A. A proper anchor would take hold immediately,

as soon as the chain tightens up.

Q. As soon as the chain tightens up?

A. Yes.

Q. But will not hold until the chain tightens?

A. The tightening of the chain makes the anchor dig in and hold.

Q. It wouldn't hold until the chain tightened?

A. If the chain wouldn't tighten, it wouldn't get much strain.

Q. I say, the anchor wouldn't hold on the bottom until the chain tightened?

A. No, not until the chain tightened, because it sinks of its own weight. To get that pressure on it, you know, when the strain comes on it, you know, at that space, it will dig in and take hold.

Q. In what direction do you say the channel runs from Hunt's Mill Point down the river?

A. What rate?

Q. In what direction do you say it runs from Hunt's Mill Point down the river?

A. From Hunt's Mill Point?

Q. Down the river. You needn't look at the map. What direction is your memory as to where it runs?

A. You refer to the trap?

Q. From the trap at Hunt's Mill Point?

A. Gradually the space out—

Q. (Interrupting) From Hunt's Mill Point in what direction as to points of compass, do you think the channel runs? You can tell me in what direction. You have lived there long enough to know the points

of the compass.

A. You have to get over from Hunt's Mill Point to get into the channel—Before you get in the direction of the channel. You can't make the channel taking bearing from Hunt's Mill Point.

Q. Well, from the middle of the channel opposite Hunt's Mill Point then, in what direction do you think the channel of the river runs?

A. Just about due north, direct across, you know, about north ten degrees west.

Q. I understand you have located the place where you think you saw the Henderson the next morning, as about the point which is marked "M" on this Exhibit 17?

A. Yes, sir.

Q. That is about the place that you think it was?

A. Yes, sir.

Q. And you saw it from the point—

A. (Interrupting) Over here.

Q. You saw it from your house, did you?

A. No, sir, from the net rack. We got a net rack out here. I was at here (indicating).

Q. Just in front of your house?

A. Just before we started to work. I made investigation to see it had been spilling anything around my drift. I didn't want to lay out before I found if I was going to get caught.

Q. Mr. Ostervolt, if the collision had taken place at the point Mr. Wood described to you, as about 300 or 400 feet off Hunt's Mill Point—

Mr. ERSKINE WOOD: Did I say it that way?

Mr. MINOR: That is the way I understood, 300 or 400 feet off Hunt's Mill Point is the way you put it.

Mr. ERSKINE WOOD: I will have to change that on redirect. I meant to say it occurred from four to six hundred feet off.

Mr. MINOR: That is the way I have it here. I may have it wrong.

Mr. ERSKINE WOOD: I may have said that.

Mr. MINOR: What did you intend to say?

Mr. ERSKINE WOOD: From four to six hundred feet off.

Q. If the collision occurred from four to six hundred feet off from Hunt's Mill Point, in what direction would the rock barges drift?

A. The rock barges were going down. Something similar to the wreck, I guess.

Q. Something similar to the Henderson?

A. Yes, the same current that influenced them.

Q. And they would have been found on the Tenas Illihee Island side of the range lights, would they?

A. Yes, sir.

Q. And how far do you think they would have drifted toward Tenas Illihee Island?

A. How far from Tenas Illihee?

Q. Yes, how far do you think they would have drifted towards Tenas Illihee Island? One of them went down as far as the point of Puget Island, for example. How far would that have been from Tenas

Illihee Island, in your judgment?

A. Right across the channel to Tenas Illihee.

Q. I say one of them was somewhere opposite the point—way down here (indicating). Everybody, I believe, testifies one was down here somewhere, off abreast the Puget Island Point—off the point. The testimony varies as to how far off it was from that point, but if the collision had taken place about four to six hundred feet off from Hunt's Mill Point, where would that barge, in your judgment, have drifted to?

A. Drifted down about there (indicating).

Q. Drifted down?

A. Down in the direction—

Q. (Interrupting) That the Henderson did?

A. Yes, sir.

Q. And she would have been found not far from where the Henderson was?

A. Yes, should have been there.

Q. Couldn't have drifted across—

A. (Interrupting) Unless there was some kind of an influence there.

Q. She couldn't have drifted across, in your judgment to within three hundred feet of the Puget Island point?

A. She should not, no.

Q. She couldn't have done that in your judgment, if she drifted with the current?

A. No.

Q. If she drifted with the current, you don't think she could have done that, do you?

A. No, not unless there was other things to make her go there.

Q. Now, I understood you to say that you used to, in running a drift net, start your drift net up in here somewhere near Bugby Hole?

A. No, sir, that is seine.

Q. With your drift net where did you start?

A. I fished from here down this way (indicating).

Q. "From here" don't mean anything. You started from up about as far as these sloughs commence?

A. Well, below Grove Slough.

Q. And from which side of the river would you put out your net?

A. From which side of the river? Some times from the Oregon side that way, and some times she lay from the Puget Island shore and went out. All depends on the tide.

Q. And you drifted it down, I understand, as far as Skamokowa?

A. Yes, below, lots of times.

Q. I understood you to say, when you laid it out from the Oregon side that your net would—one end of your net would just about strike the point of Tenas Illihee Island?

A. Inside end of it would pass that point there, lay across in here (indicating).

Q. Just about strike—just miss the point of Tenas Illihee Island?

A. Leave it room to drift outside the point. Yes, that is, be laying close in here, and laying it over

here (indicating).

Q. And was very near the head or point of Tenas Illihee Island?

A. Yes, sir.

Q. Just miss it. That is what I understood you to say?

A. Yes, sir.

Mr. ERSKINE WOOD: Did you say just miss or clear it easily?

A. Clear it easily is what I meant.

Mr. MINOR: What he said was "just miss it."

A. Miss it, you know, when they are in to something like 15 feet of water, pretty near; shallow right there.

Q. Miss it in something like 15 feet of water—that is what you mean?

A. Yes.

Q. About how far out from Tenas Illihee Island, at, and just below the point, is the water 15 feet deep?

A. You are talking about today, or speaking about the time I used to fish?

Q. Well, both. Take both.

A. As different as night and day.

Q. Well, take both.

A. The channel down there we used to fish all the time, you can walk there now.

Q. I say, take that time and the present time both.

A. Well, then, we will say that we are about 100 feet, I suppose, off from the point 20 years ago, and go right down there.

Q. And now you would be about how many feet off the point to have 15 feet of water?

A. About a thousand feet.

Redirect Examination.

Questions by Mr. ERSKINE WOOD:

Mr. Ostervolt, in answer to a question of Mr. Minor, when you were talking about this Duncan Slough, and this little slough down here (Referring to Libellant's Exhibit 17) you said that this chart was entirely incorrect. This chart wae prepared in the engineer's office, and I want to ask whether you mean by that that the location of Duncan Sloufh and the little slough below it—

A. (Interrupting) Seem to be out of proportion, yes.

Q. (Continuing) Which I will mark PQ, seem to be placed too far apart.

A. Yes, sir.

Q. And I will ask you whether or not you think that this chart represents the shore line and Clifton Slough and the river, and Grove Slough and Hunts Mill Point, and the points of the island and the range lights and Bugby light and Coffe Island etc. properly?

A. About correct, yes.

Q. Then you only mean to say that Duncan Slough, which I will now mark "Duncan Slough," and the little slough which I have marked "PQ" appear on this map to be placed too far apart—a little too far apart.

A. Yes.

Q. About how much too far apart?

A. They seem to me to be about a couple of hundred feet too far apart.

Q. You said that the bed of the river was on a slant from the head of your seining ground down into deep water?

A. Yes.

Q. About two-thirds across the river; that slant extended about two-thirds across the river from your seining ground, and before that you said there was a flat in the middle of the river there, where the depth of the water was about the same. I don't understand myself what you mean by those two statements.

A. When you get into deep river, the bed always a flat, then it seems to go up to Westport side.

Q. Then starting from the shore at the head of your seining ground, how far out does the river slant until it strikes the east side of that flat in the bed of the river?

A. About 800 feet.

Q. If this collision occurred, four to six hundred feet off from Hunts Mill Point, and a little downstream from the point, the vessels were going at approximately three miles an hour at the time of the collision, and the anchors were dropped about thirty seconds after the collision, would the anchors there fall on ground which was at such a slant that it would interfere with their holding?

A. No, sir.

Q. They would fall in good anchorage ground?

A. They would fall in good anchorage ground.

Q. If the collision occurred at a point from 400 to 600 feet off and down stream from Hunt's Mill Point, and the Samson with her stone barges was running at that time approximately seven miles an hour—six or seven miles an hour—and they were on a hard aport helm, swinging on a hard aport helm, how would that influence the position in which the stone barges were anchored, or the direction in which they would drift or swing after the collision?

A. (Indicating) If they was running across like that, you know, would throw out in the river channel again.

Q. Throw them out in the middle of the channel again?

A. Yes, throw them out towards the Washington side of the channel.

Q. Then, if they were swinging on such a hard aport helm as I have described, with that speed that I have described, and the collision occurred from 400 to 600 feet off Hunts Mill Point, a little down stream from the Point, the stone barges, in your opinion, would not drift down here where you have located the Henderson at the point M?

A. No, that would change the position entirely.

Q. But they would keep their momentum, and drift over toward the Puget Island shore?

A. Yes, those heavy loaded vessels, you know,

keep their momentum up all the time.

### Recross Examination

Questions by Mr. MINOR:

If there was no way of steering the rock barge, and the rock barge was cut loose entirely from the Samson, how would she drift then?

A. Well, she would go on her career until she stopped and then drift.

Q. In a curve until stopped?

A. She would go on her curve, after she got knocked away, she was going on. Well, when you dropped her she went the way she wanted to go, didn't she?

Q. I don't know. I want to know from you.

A. She would go her own way. Nothing to steer her. She was not under control?

Q. Yes.

A. Nobody knows where she would go.

Q. Nobody knows where she would go.

A. No, she might turn around and go right back on her—might double on her own track?

Q. Might double on her own track?

A. It depends on how she got slowed where she would go.

Q. If the Henderson struck that way, and was drifting, she would have a tendency to go her own way, too?

A. Sir?

Q. The Henderson also would go her own way,

wouldn't she?

A. She would only with the exception she wouldn't go very far, because she was sunk, and the other one was afloat and able to navigate.

Q. That is the only difference?

A. That is all.

#### Redirect Examination

Questions by Mr. ERSKINE WOOD:

Mr. Ostervolt, you said in answer to Mr. Minor, that you thought that 15 feet of water depth off of Tenas Illihee Island upper point would be 1,000 feet off shore now. I just want to ask you whether you think those conditions there were about the same in 1911? Do you understand me?

A. Yes, but the further below the point I had in mind, you know when I would miss that 15 feet of water. I meant further down than here.

Q. Further down than where the Henderson lay?

A. Yes, a little further down abreast the point.

Q. You meant those were the conditions in 1911?

A. Yes, it was the same.

Witness excused.

Captain Edward Sullivan recalled by the libellant.

#### Direct Examination

Questions by Mr. C. E. S. WOOD:

Captain Sullivan, in the night in question of the collision, how long had you had the helmsman or quartermaster of the oil barge steering for you?

A. From Skamokawa.

Q. How long in time?

A. From twelve o'clock until the collision, which is said to be 1:40—an hour and forty minutes.

Q. And had he obeyed your directions as to the manipulation of the helm correctly?

A. Yes, sir.

Q. Any mistakes?

A. None at all.

Q. Now, in reference to the letting go of the anchor, I wish you would, at the risk of a slight repeating, state again what your prime object was about these anchors?

Mr. MINOR: Is this rebuttal?

Mr. C. E. S. WOOD: It trespasses a little. It is only to lay the foundation for another question.

Mr. MINOR: I make no particular objection except as a matter of time.

Mr. C. E. S. WOOD: It is only necessary for me to follow up. I am not going to retard the case,

A. Shall I answer the question?

Q. Yes.

A. The idea in letting go the anchors was to stop the boat as quick as possible to keep her from going any place where she would injure herself; keep her afloat. The shore looked near to, and the quicker the anchors were down, the better.

Q. And did you at that time, then, observe the way the chain fetched up, and what momentum the oil barge had at that time toward the Oregon shore?

Mr. MINOR: He was examined on this.

Mr. C. E. S. WOOD: Not the point I have in mind. Did you, Captain?

A. Repeat that question. (Question read). Well, my idea of the momentum would be by the way the chain did fetch up. Of course, my experience would teach me that if a heavy barge like that has momentum and is suddenly stopped by chains, there is quite a jar. Lots of hollow places in a ship re-echoes; sounds very easily heard, and if the motion as it was attempting to fly these brakes—that friction brake in a manner to stop the momentum, there would be lots of noise of squealing and jumping; two irons meeting that would be very easily heard all over the ship, and as none of those sounds were heard, I was satisfied there was not any momentum to cause that, and it wouldn't take very much.

Q. Now, regardless of your actual experience that night, you have had considerable experience, have you not, handling these heavy vessels?

A. Yes, sir.

Q. Oil barges and other heavy vessels?

A. Yes, sir.

Q. Now, you are approaching a landing; there is some testimony here by Captain Jordan and others that steam is shut off a long distance from the land—distant from the landing. I want you to explain very plainly just why that is done; at what distance under what circumstances of water, and how the vessel is moved onto her berth.

Mr. MINOR: I think none of this is rebuttal, and I am going to object on that account.

Mr. C. E. S. WOOD: I am putting this in rebuttal of Captain Jordan's statement.

A. The landing of a vessel is governed entirely by the conditions in each separate case. If there is a current, the distance is shorter. If slack water, the distance would be further away. If there was shallow water at the point of landing, a stern wheel boat of any sort of power to be used, there would be more precaution taken about landing; the distance would be further away, and the speed of the vessel slower; or if there was a landing, that there would be some danger where the vessel would have to go ahead or have to be stopped where she couldn't be allowed to pass by, in case she couldn't be stopped, all those things have to be taken into consideration, particularly shoal water. At shoal water, the vessel's backing power is greatly retarded by the shallow water.

Q. Now, as a matter of fact, do you stop these vessels and then kick them up from time to time?

A. Yes, sir, invariably.

Mr. C. E. S. WOOD: Is it in evidence that he ever handled the Samson himself?

Mr. MINOR: Not with these rock barges.

Mr. C. E. S. WOOD: I will ask the question.

Q. Did you ever handle the Samson with these rock barges?

A. No, sir.

Q. Did you ever handle the Samson at all?

A. Yes, sir.

Q. From what you know of the Samson and your general experience on the river, if Captain Jordan had been coming around the point of Puget Island opposite Bugby Light, as he says he was, under a port helm, and from 400 to 800 feet off of Puget Island shore—we will take it 800 feet—take the maximum—and had kept a more or less port helm all the time, and a part of the time, the latter part for a moment or so, a couple of moments, hard aport, and he had run that way for five minutes, we will say, at that distance off Puget Island, what, in your judgement, would have been the consequences?

A. Well, I think he would have been up head into the shore, about half way down to Grove Slough. That would be my judgement. He would be head onto the land, aground.

Q. In rounding this point, or any point in the river, is it the practice to leave the helm in the position in which it is put in order to make the rounding or make the curve?

A. No, that is not at all the theory of steering, or the custom used. The helm is put over a sufficient amount to start the vessel; when she commences to swing, she is eased up, and eased up according to the manner in which she swings; would depend on the weight of the tow, on the way the vessel steers, how that helm was handled.

Q. And when you have completed the swing around the curve, you steady her then?

A. Invariably have to put the helm in the opposite position to stop the swing. They don't stop themselves, no vessel. The vessel has to be put in the opposite direction more or less according to the manner in which she steers. A heavy vessel with a heavy tow the more wheel.

Q. Did you hear the testimony of Captain Crowe and the other experts? According to the courses as described on the chart "Libellant's Exhibit 1," what lights would be visible between the two vessels, each to each?

A. Well, I heard the conversation, but I couldn't understand the theory.

Q. You heard the testimony?

A. Yes, sir.

Q. Now, state whether or not you could have seen the lights of the Samson from your position, and why, if you could—I am talking about the colored lights all the time?

A. Well, the Samson naturally would be coming down the river. He would make the turn the best way he could, and come down the river according to the way other ships run under those circumstances—the way I run, the way he runs, and the way everybody runs—only one way to run there. The fact of my turning to one side, I can readily understand why it would obscure the green lights to his view, but in my view wouldn't change my position in which I could see at all. I don't see what difference it would make to me, seeing his lights. My point of view

wouldn't be changed, because the vessel's head turned, even if she turned in the opposite direction. By looking up the river I could see. I hadn't gone very far in a line that would obstruct my point of view, but my vessel swinging would obscure the green light from him, I should think. That was the intention.

Q. Take the open part of the side screens of the colored lights. Through how great an arc are the two lights visible? That is, from the port red light around to the open part of the green starboard light?

A. Well, that is a question I don't understand very thoroughly, about those distances, and it seems to me it is more a question of mathematics. I think a man in making an answer to those kind of questions don't really give any sensible idea that hasn't studied it from a mathematical point.

Q. Then let me put that mathematical statement: Can you, when you are ahead of a vessel, cross her course for some little considerable time before their light is obscured? Can both lights remain?

A. If the distance is sufficient away, I should think so. That is, it seems to me the distance away would affect that.

Q. We can figure out the mathematical part. I want to get your experience about it.

A. Well, I don't know that I could give any definite answer about that, because I have probably had no experience on that particular thing; paid no particular attention to that particular thing. It is a question, unless some particular notice has been taken of

it, I don't believe an intelligent answer could be given.

Q. But if I understand you, as long as he is bearing down on you, and you are not excessively to one side, you would see his two lights?

A. Yes, sir, in this particular place. Under the circumstances in which this vessel came down, and I have taken a great many down there, and watched a great many go down there under different circumstances. There was nothing in the position of these two boats, that is, from my point of view, that would obscure either one of his lights from the position in which I claim that this happened; nothing at all.

Q. Then, as you ported your helm going up, and swung to starboard, the green light, your starboard light might for a time be shut out?

A. Well, I would think—the intention was to be shut out the greater part of the time. Unless the vessel would yaw in straightening her up, which of course wouldn't be noticed particularly by me, and would by him; such a thing would be possible; but the fact that a green light of mine was in sight to him, was entirely wrong from my point of view. He might have seen it occasionally when the vessel was being straightened up, but as to seeing it all the time, it was impossible from my point of view. I don't see how it could be done. But his lights would not necessarily be obscured from my view.

Q. Is there anything on the Henderson or the oil barge in front of these colored lights which would obstruct them or get in their way on any swing?

A. Absolutely not. A swing stay running down from the foremast.

Q. About what dimensions?

A. About three-quarters of an inch, seven-eighths possibly.

Q. How great an angle would a person have to be to throw that stay in line with the light—either light?

A. Well, the beam of the barge is 45 feet, and the light sets out to the outboard side; my recollection is just inside of the line where it wouldn't be carried away by striking against the dock; that would be practically one-half of 45 feet.

Q. How far is the stay in front of that?

A. I think about 30 feet to the stem. It is made fast to the stem, the extreme forward end of the vessel.

Q. So, if we take a triangle, with the base of it one-half of 45 feet,  $22\frac{1}{2}$  feet, and the perpendicular of it about 30 feet out from the stay, the hypotenuse of it would represent the angle?

A. Yes, sir.

Q. Do you think it possible that any person at the distance Jordan was away could notice the blink of such a thing as a stay swinging in front of a light?

\* A. No, the idea is perfectly ridiculous to me.

Q. There is no use repeating to you the hypothetical questions because you have heard this testimony here, and were present at the time. I wish you would state whether or not, in your opinion, the parting of these lines connecting the Henderson and the oil

barge would have had any effect in checking the momentum of the oil barge, and if you think so, give your reasons why.

Mr. MINOR: We have been over this before.

Mr. C. E. S. WOOD: No, we haven't.

Mr. MINOR: I object as not rebuttal.

Mr. C. E. S. WOOD: Your people have said it wouldn't have any effect at all. I have a perfect right to rebut them.

A. It would seem to me it would be very material. A line can't be parted in the first place without a force, and I don't see why an instantaneous force isn't just as effective as a slow force in breaking. The same force would be exerted; in the first place the head line would be parted first, and that line is long; I think it must be 30 fathoms of that line out. No, I won't say as much as thirty fathoms, that is 180 feet. Well, I would say there was 80 feet of that line out. It is a well-known fact that a Manila line has a lot of spring to it. It will stretch quite a ways before it will break; I don't know just how much per foot. Never figured that out, but quite a bit; that stretch would be taken into account. It wouldn't break instantaneously. Then comes the breast lines, the breast line leading straight abreast. The vessel would have to go at least six feet astern.

Q. (Interrupting) By straight abreast, you mean practically athwart ships?

A. Opposite the point of the bow. She would have to travel at least six feet to stern before these

lines would be drawn tight; so they wouldn't be tight. Then the stern lines have to take effect. They would be brought to an angle where they would bear; these four lines would be holding at the same time. The stern Manila lines would have a certain amount of stretch. Then after these lines parted, would come this wire tow line. Of course she would have a pretty good way then, probably 40 feet of its lead. That perhaps would come up with more of a snap. Still the force that broke it would have to be exerted against the movement of that oil barge, and the backing of the boat would, it seems to me very naturally stop her way. It does in every other instance. I don't see why it wouldn't with this.

Q. Do you know whether the Henderson was a good backer and so considered on the river?

A. She is considered one of the best that goes here of her power.

Q. Now, take the whole circumstances under consideration, the relative speeds that they had been going; say the oil barge three, and the stone barges anywhere between six and nine, one going up and one going down, allowing for the rock barges having hit the Henderson, and parted the lines, which of these two masses would be left, in your opinion, with the greater momentum?

A. Well, the one going down would be; the Samson.

Q. What is the depth, and what boats make a practice of using the Prairie or Clifton channel?

A. Well, at the present time, only the boats that tow logs or such things as they get down there. I believe there is occasionally scows, or a scow goes down there. I don't know just for what reason. I believe to avoid rough water. But generally the boats go through there with logs.

Q. What is the depth of the channel?

A. I don't know as to what it is beyond the point this side of Clifton, but in my time we figured it to be seven feet. I think there is a channel since down along these shores. I think there is some change in that channel; considered deeper, I don't know just what it is.

Q. You don't know what it is?

A. No, but in the middle where we run, and where the channel was in my time, and where I recently passed over, considered to be seven feet all along here.

Q. What do you refer to as your time?

A. When I ran boats to Clifton to get salmon.

Q. I say, when was that?

A. 15 years ago.

Q. Been changes since that? Been any dredging there?

A. Not in that place, no.

Q. I don't know whether you are talking about the same thing I am talking about. I am talking about the opening in the Columbia River about that point.

A. That is what I speak of; been no dredging in that channel. Clifton Channel, you were speaking of?

Q. Yes, but you haven't kept posted as to what

its present depth is?

A. No, beyond this sort of an examination the other day.

Q. Do you know whether this region there by Hunts Mill Point and that wide part of the river there has been used habitually as an anchorage ground for vessels?

A. At one time. During the time when all of the traffic here was sailing vessels being towed up, it was quite a common thing to anchor in that vicinity. But of late years, since the channel conditions have changed, and the business is handled more with steamers—

Q. (Interrupting) Do you mean by conditions changed, do you mean the anchorage is changed?

A. Not at all. But the channel has been deepened, and the vessels go on through, instead of having to wait for the tide, and having to wait, they stayed up that distance to keep out of the wind, rather than go down to where more exposed.

Q. What effect, in your opinion, on Captain Jordan—take this particular occasion; what effect on Captain Jordan, under all the circumstances given by himself—you heard his testimony?

A. Yes, sir.

Q. Would the laying in of the Henderson on the slight angle to the oil barge have upon his observation of the lights carried by the Henderson, the red light, and the oil barges' green light respectively?

A. Well, from his point of view, and that particular occasion and at that particular time, I don't see

why if it—if the Henderson was turned in, it would only throw the light more to his view, but it would have—unless he was on the other side of the ship, it wouldn't affect his seeing it. If he had been on the other side, the starboard side of the oil barge, and looking from that angle, it might throw the red light a little further.

Q. How much further? How important would you regard that?

A. I couldn't say. That would be another case of figuring. But that is universal, has always been used. Every stern wheeled boat knows that is the custom. I never heard it complained of before. I never heard it mentioned before by anybody—my first experience.

Q. There has been some testimony here, I am not clear what the person intended myself, about the Samson seeing two green lights, one on the Henderson and one on the oil barge. How about that?

A. Well, that was impossible.

Q. You are sure of that?

A. No question about it.

Q. There is only one green light carried?

A. I was looking back in that direction as often as every three minutes all the way to Astoria, and the gangway doors were not open, and no light showing from the gangway doors and no green lights on the Henderson.

Mr. ERSKINE WOOD: What do you mean by looking back in that direction?

A. To see how the boat was steering.

Mr. ERSKINE WOOD: You mean in the direction of the Henderson?

A. Yes.

Q. You have already answered, as I understand it. Just prior to the collision, at any time, were those gangway doors of the Henderson open so as to show lights?

A. No, that would interfere with my vision. I couldn't stand it for no length of time showing back there. Would have immediately had it shut off if they had been open. The doors are shut and the curtains drawn, no lights coming out of those doors.

#### Cross Examination

Questions by Mr. MINOR:

You said if Captain Jordan was coming down around the islands as others do, and as he should do, what do you mean by that?

A. Well, what do you mean by your question. I want to interpret your question right before I can answer it.

Q. Read the question. He says he don't understand. I am getting tired of this witness evading a simple question. (Question read as follows: You said if Captain Jordan was coming down around the island as others do, and as he should do what do you mean by that). What do you mean by that? That is what I want to know. What do you mean by the expression you use?

A. I mean that a vessel coming down the channel

in the way that vessels usually come down that channel.

Q. Well, how is that? What way is that?

A. Come down the channel, coming down the river.

Q. Well, how do they come down the river then?

A. Well, they come right down the middle of the river.

Q. Come down the middle of the river?

A. Yes, turn around down the middle of the river.

Q. Is that the way you go?

A. Well, it is immaterial. Anywhere between those banks you happen to go.

Q. How do you go?

A. Don't go any particular way. Just come down there as it happens, to go around the point.

Q. You don't go around any particular way?

A. Not particularly. Not necessary to go a particular way. The river is deep all the way across.

Q. I call your attention to your testimony on the trial of Captain Jordan, page 10, in which in reply to a question put to you by Captain Edwards, you said this: "Q. When coming down through that particular part of the Columbia River, do you keep close to the Puget Island shore? A. As a rule, yes." Is that correct?

A. As a rule, yes.

Q. That is the way you come down and that is the way other people generally come down, as a rule?

A. They come down as they please. I don't know

how they come. No particular way of coming down through there. Each man does his own way.

Q. Further down in the same connection, you testify: "Q. Going down? A. Yes, sir, as a rule I do. Almost at the point of the island is a trap and as a rule I make it a point to get on the range about there. That is not necessary always and not always observed. Two years prior the condition of this shore was such that it was necessary to keep this range, to keep this range of lights open on this shoal which is located at all times, so in going down here, this range was never on this side. That would indicate there was plenty of water along here where there was no shoal to do that. The vessels some of them drawing 25 feet. Did you so testify before the Inspectors?

A. Yes, sir.

Q. Then as a rule you do, when you come down the river, with a vessel, keep pretty close to the Puget Island shore?

A. That is my way of running, yes.

Q. And that is the way you generally observe other people doing, isn't it?

A. Not necessarily, no.

Q. I didn't say necessarily. I say, is that the way you usually observe other people doing it?

A. They come down the river there any way they please.

Q. Well, how do you observe them generally coming down? As a rule, now, how do you see them generally come? Near the Puget Island shore or not?

A. I don't know as I ever made any particular observation, only in a general way.

Q. Do I understand you to testify now that you know that the Henderson did back before the collision?

A. Yes, sir.

Q. When you were on the stand before, you testified that you didn't know whether the Henderson backed before or not.

A. Well, I say I gave orders to back.

Q. I say, didn't you say that you didn't know whether she backed or not before the collision?

A. Well, I don't know that yet.

Q. So you don't know she did?

A. No.

Q. So, if you said just now that the Henderson backed, you don't know that as a fact? You just assume that she did?

A. I assume that she did.

Q. Did you say now, that you don't know whether your headway was checked at all or not, before the collision, or that you do not think it was checked before the collision?

Mr. C. E. S. WOOD: I didn't ask about that.

Mr. MINOR: You didn't ask about it, but he made that statement.

Mr. C. E. S. WOOD: All right. It is quicker to put it in. I don't suppose you have any more desire than I have to open up the case.

Mr. MINOR: No, I don't.

Q. You say now her headway was checked before the collision?

A. I think it was.

Q. When you testified before, didn't you say you didn't notice whether the headway was checked before the collision?

A. I don't remember.

Q. If you did, do you mean to correct that statement you made then, or say now that you don't know whether it was or not?

A. Well, I don't know that I made that statement.

Q. Well, if you did? I have a minute here to that effect. I wouldn't ask the question if I didn't have a minute here on my paper. The minute I have here is "Didn't notice that headway was checked," which I took down from what I understood you to say at the time. Now, if you did say it at that time, I want to know which is correct.

A. Is there any evidence now to show that I said I don't know, as your minutes say?

Q. That is what my minutes say. That is my recollection.

A. Will you just read that testimony.

Q. No, sir, you know I can't do it.

A. Well, you see I don't know.

Q. You don't know whether you said it before or not?

A. Have no recollection of saying it.

Q. If you did say it before, I want to know whether the answer was correct then or not.

A. If I said I don't know whether the headway was checked or not before the collision?

Q. Yes, didn't notice. "Didn't notice" is the way I have it here. "Didn't notice that the headway was checked."

A. With reference to my observation after the collision, or before the collision, or what time?

Q. That is your answer?

A. I don't know anything about what your question refers to, and you don't either.

Q. The minutes as given are, "Don't know whether Henderson backed." You said that answer was right.

A. I don't know what minutes you refer to.

Q. The minutes I have in regard to that matter is "I didn't notice that headway was checked." If you did so testify, I want you to say which is right.

Mr. C. E. S. WOOD: If you did say that, which is right?

A. The testimony I have given at the present time.

Q. You did notice that the headway was checked?

Mr. C. E. S. WOOD: I don't understand him now to answer about noticing.

A. I don't understand the question.

Mr. C. E. S. WOOD: If you are talking about my question in rebuttal, it was argumentative, from the fact that the breaking of the cables must have checked the oil barge. I didn't ask if he personally noticed the checking. He argues that it must have been

checked.

Q. What I want to know is whether he did intend to say that he noticed that the headway was checked.

Mr. C. E. S. WOOD: I don't even know what his answer would be on that.

A. I don't know how to answer your question.

Q. That is sufficient. If you don't know how to answer, that is all I want to know.

A. Yes.

Mr. C. E. S. WOOD: My point—the question I might have asked him, might have asked any expert, whether he would have argued checking, not whether he personally noticed it.

Q. Did you notice anything peculiar in the way Jordan came around the island the night of the collision?

A. No.

Q. Nothing which occurred to you as peculiar about the manner in which the Samson was being navigated around the point of the island?

A. No.

Redirect Examination.

Questions by Mr. C. E. S. WOOD:

In order to clear up this disputed point, I would like to ask for myself: Did you at the time of the collision, personally notice by anything that your headway had been checked?

A. No, had no way of noticing.

Mr. MINOR: That is what I wanted him to answer.

Questions by Mr. GUTHRIE:

They have gone into this matter of port light on the Henderson. Was it any of your duty at Astoria to superintend the lashing of the Henderson to the oil barge?

A. No.

Q. Was it any of your duty to look over the barge light and see that it was fixed in accordance with any rule?

A. No.

Witness excused.

CHARLIE JOHNSON, recalled by the libellant in rebuttal.

Direct Examination.

Questions by ERSKINE WOOD:

Charlie, how deep are the drift nets that you used?

A. We got one kind of nets what is 40 to 45 feet deep.

Q. Which are those?

A. That is what we call floaters.

Q. They float on the surface?

A. Yes.

Q. And extend down for 40 or 45 feet?

A. Yes.

Q. What is the other kind you have got?

A. Got another kind we call divers, from 12 to 15 feet deep. We have them leaded heavy so they sink down to the bottom of the river, and travel on the bottom.

Q. They are about 12 or 15 feet deep?

A. Yes, sir.

Q. You have before testified as to the course that your nets drift, and that there was no tendency to drift down Clifton Channel. I just asked you whether you mean that that testimony applies to both kinds of nets?

A. The same, both.

Q. What?

A. Just the same.

Q. I show you Libellant's Exhibit 17. Captain Jordan has located the point of collision, the corrected point of collision at point K, which I now show you--this point right here. In your opinion, if the Henderson was cut loose at that point from the oil barge, and became a wreck, would she have drifted from this point here K, over to point M, off Tenas Illihee Island?

A. No.

Q. How would she have drifted?

A. She would have drifted down this way (indicating).

Q. Down the channel, down the range lights, down the Puget Island shore? What do you mean, Charlie?

A. Down Puget Island side of the range.

Q. Why is that, Charlie?

A. Because the tide goes down that way.

Q. Do you know anything about the anchorage ground in that part of the river?

A. Why, a little below the bluff.

Q. Which bluff?

A. On the Oregon side there.

Q. Hunt's Mill Point?

A. Yes, why, I have been along and drove traps there a couple of times.

Q. Driving traps?

A. Yes.

Q. About how much out from shore?

A. I think goes around 500 or 600 feet there.

Q. What kind of a bottom is it?

A. Good bottom. Hard to get the anchors up again.

Q. Have you ever anchored in there?

A. Yes, have been along driving them down and pulled up again.

Q. What time?

A. On pile drivers. We used to line about 200 or 300 feet along. We was out with a gasoline boat, and dropped overboard, and have to pull it up the same way again, when we get it in.

Q. Charlie, you testified before that the Henderson and the oil barge passed you as they came up the river that night while you were drifting?

A. Yes.

Q. Did you see more than one green light on those boats?

A. No, only one.

Q. Do you feel sure that there was only one on them?

A. There was only one.

## Cross Examination.

Questions by Mr. MINOR:

Mr. Johnson, what kind of net were you using that night?

A. I was using a diver at that time.

Witness excused.

OLE GROVE, recalled by the libellant in rebuttal.

## Direct Examination.

Questions by ERSKINE WOOD:

Ole, did you just hear the testimony of Charlie Johnson about the depth of these two kinds of nets?

A. Yes, sir.

Q. Is that correct, in your opinion?

A. Yes.

Q. You testified before that your nets drifted down the range, not down Clifton Channel, did you not?

A. That is right. Go on the range.

Q. Do you mean that testimony to apply to both kinds of nets?

A. Yes.

Q. What do you know about the anchorage ground in this part of the river—the bottom?

A. Oh, we have been going there—all kinds of things. These small boats, sometimes use logs and scows and come up Clifton Channel, by easy current. They get as far as the bluff there, then wasn't able to get any more.

Q. Hunt's Mill Point?

A. Yes, and we have to throw anchor out and wait for the next tide to come around to get home.

Q. Wait the next tide?

A. Yes, flood tide, we call it.

Q. What kind of anchors used?

A. Small anchors, 25 or 30 pounds, and they hold good there, so we have hard work to pull up again.

Q. What kind of bottom is it?

A. Sand and dig down, we can see some kind of clay, shaley ground.

Q. Mud and sand?

A. Yes.

Q. If the collision occurred at the point marked K on Libellant's Exhibit 17, which I show you, as claimed by Captain Jordan, would it have been possible, in your opinion, for the Henderson to have drifted from the point K to the point marked M?

A. No, he couldn't get over there.

Q. Where would she have gone?

A. She would go right straight down here. If the collision had been here, you know, she would have been right here some place (indicating).

Q. What do you mean by straight down?

A. The current goes just about straight down.

Q. Down the Puget Island shore or down the range?

A. No, near straight down along the range, or along Puget Island shore.

Q. If the collision occurred 600 feet off Hunt's Mill Point and a little below it, and the rock barges

were swinging on a hard aport helm, under a momentum of six or seven miles an hour, and not anchored for ten or twenty minutes, where do you think they would have gone?

A. I don't know. Ask the question again. What did you say?

Q. I asked you what would have been the direction of the stone barges if the point of collision occurred off the Hunt's Mill Point, and they were swinging on a hard aport helm at the time?

A. A hard aport helm?

Q. What direction would they go?

Mr. C. E. S. WOOD: Taking the current and the direction of the barges.

A. Straight down the river.

Q. Swinging on a hard aport helm.

Mr. MINOR: They haven't ~~any~~ helm themselves.

A. They would go more to Puget Island.

Q. Towards Puget Island?

A. Yes, sir.

#### Cross Examination.

Questions by Mr. MINOR:

Mr. Grove, the barges have no helm themselves at all. They have no steering apparatus themselves at all. They are steered from the towboat, you know.

A. Yes.

Q. Now, if they were just swinging with the towboat if one were cut loose all at once from the towboat, and the towboat did not guide them thereafter?

A. If had any headway after cut loose from the

boat, might go around. They might go on their own headway, if they went down in that consideration. If they had a little headway and no steering vessels themselves, they will go by the tide. If the tide happened to swing out a little this way, they would go.

Q. They would go with the tide?

A. Yes, sir.

Q. You understand these rock barges are flat bottom?

A. Yes, sir.

Q. They have no rudder at all?

A. No.

Q. So in that case, the rock barges, you think, would have gone with the current?

A. Yes, sir.

Q. And the current sets, as I understood you to say before, from that point over to the point of Tenas Illihee Island? From Hunt's Mill Point over to the point of Tenas Illihee Island?

A. And goes straight down this way.

#### Redirect Examination.

#### Questions by ERSKINE WOOD:

Mr. Grove, do you mean that if the collision occurred here just below Hunt's Mill Point, and the Samson with her three barges was swinging on a hard aport helm, and going seven miles an hour, and with the current as there was that night—

Mr. C. E. S. WOOD (Interrupting): And the Samson, to which they were attached, had put her

helm hard aport so that her rudder was hard aport.

Q. Sure, the whole flotilla of boats with the Samson was swinging on a hard aport helm, do you think those barges then would drift down here near Tenas Illihee Island?

A. No.

Mr. C. E. S. WOOD: How would they go?

A. They would go down here (indicating).

Recross Examination.

Questions by Mr. MINOR:

I don't understand you. Your statements are inconsistent, and I don't wish them to be so. I understood you to say awhile ago, in answer to my questions, that if the rock barge was cut loose from the Samson so that she was no longer steered from the Samson, that she would drift with the current.

A. Well, of course she will go with the current after that if that Samson was hard aport.

Q. She was cut loose from the Samson.

A. She might be aport at the time.

Q. The barge?

A. The Samson might lean to port at the time they were cut loose, and the barge would go that way.

Q. Would that make a difference in the way the barge drifted if cut loose from the Samson?

A. Yes, a little difference.

Q. How much difference?

A. I couldn't say, but it would make a little.

Q. As a matter of fact, the barge not having steer-

ing power when cut loose from the Samson, would drift with the current, even if she had to turn around to do it, wouldn't she?

A. Yes, would drift pretty near with the current.

Witness excused.

EDDIE GROVE, recalled for the libellant.

Direct Examination.

Questions by ERSKINE WOOD:

Eddie, have you heard the testimony of Charlie Johnson and your father about the depths of the two kinds of nets?

A. Just now, you mean?

Q. Yes.

A. Yes.

Q. Does that concur with your idea?

A. Yes.

Q. And do you mean to say by your former testimony that both these kinds of nets drift down the main river, down the range without any drift down Clifton Channel? That applies to both kinds of nets?

A. Both kinds, yes; both drift with the tide.

Q. Now, have you known this part of the river as an anchorage ground for ships?

A. Yes, sir.

Q. Well, what do you know about that?

A. Quite a few years ago we used to anchor ships around there every now and then, but now these last few years there hasn't been so many.

Q. Customary anchorage ground?

A. Now, they only anchor in fog or anything like that, when they can't go.

Q. But used to be a customary anchorage ground?

A. Yes, used to be.

Q. Do you know anything from your own experience about the anchorage ground?

A. Yes, we used to anchor our fish boats and things like that around there.

Q. Around where?

A. Around Puget Island. Hunt's Mill Point and all there.

Q. About the same kind of soil all around?

A. Yes, seems to be about the same. Seems to be good anchoring ground all around.

Q. Good holding ground?

A. Yes.

#### Cross Examination.

Questions by Mr. MINOR:

Q. What kind of net were you using that night?

A. Diver.

Witness excused.

HENRY STAYTON, recalled by the libellant.

#### Direct Examination.

Mr. MINOR: I wouldn't like to take up Stayton without leave to cross-examine.

Mr. C. E. S. WOOD: Jordan has said certain conversations occurred.

Mr. MINOR: If you want to ask about that, all right.

Questions by Mr. C. E. S. WOOD:

You heard Captain Jordan's testimony, didn't you?

A. Yes, sir.

Q. Did you hear his statement that after the collision, after you came on board the Samson that he asked you—I don't know that I can state it exactly.

Mr. ERSKINE WOOD: It never was stated exactly. Jordan didn't state it exactly himself.

Q. I will ask you to state yourself what conversation did actually take place.

Mr. MINOR: I don't think that is impeaching unless you state it as Jordan gave it, Mr. Wood.

Mr. ERSKINE WOOD: I will state the question. Jordan said something to this effect: That when you came on board the Samson you said something about "It's funny he would give one whistle when he saw a green light." That is about the way that Jordan said that you said it.

Q. Now, I will ask in the first place whether you ever said that?

A. No, sir.

Q. And then I will ask you what conversation, as far as you remember, did take place?

A. All the conversation I remember having with Captain Jordan was that we were sitting aft on the port side of the Samson, and he asked me if we heard his whistle. I says, "Yes, we blowed first," and then I started to walk forward. I heard him making some statement to somebody standing around there, "Well, I guess we will have a chance to see the inspectors now."

Cross Examination.

Questions by Mr. MINOR:

You were asked about this conversation before the Inspectors, weren't you, at the trial of Captain Charles Jordan?

A. Yes, sir.

Q. I will read from your testimony at that time:  
"Q. Did you have a talk while you were on board there with any of the crew of the Samson? A. Why, just Captain Jordan is the only one I spoke to in regards to the collision. Q. You didn't talk to any of the others? A. Not in regards to the collision, I didn't talk to any of the others. Q. Anybody around when you were talking with Captain Jordan? A. No. Some of the crew of the Samson, I think, were standing around. Q. Did you have any talk with Captain Jordan about the whistles? A. Yes. He asked me if I heard his whistles. I said yes. That is all I said. Q. So you told him at that time you did hear his whistles? A. Yes, sir; that is I meant his first whistle. Q. But he asked you if you heard his whistles. A. I said "Yes, we blew first for you." Q. You didn't tell him you didn't hear the second whistle, did you? A. No, sir. Q. So when he asked you if you heard his whistles, you said yes, didn't you? A. Yes, sir. Q. Now, don't you remember at that time that you also said, either to Captain Jordan or to some others of the crew who were present there—to Captain Jordan, that you did hear the whistles, and that you thought it was strange that the Oil Barge 93 should

blow one whistle when she had her green light visible or in sight? A. No, sir, I don't remember that at all. Q. You don't remember that? A. No, sir. Q. Do you remember that Captain Jordan, or Captain Church, or some of them, stated to you at that time that the oil barge was showing her green light? A. No, sir, they did not. Q. You don't remember their saying that at that time? A. That is all that was said. Captain Jordan asked me if I heard his whistle. I said, yes, but we blew our whistle first. I think that is all I said." Now, did you so testify upon the examination before the Inspectors?

A. I think so.

Q. Now, at that time you didn't say anything about Jordan's saying, "I guess we would have to see the Inspectors"?

A. No, I didn't say anything about that up there, no.

Q. Didn't think of it there then?

A. I know he said it, yes.

Q. You didn't think of it at that time?

C. E. S. WOOD: Mr. Minor, he didn't say that he had that conversation with Jordan. He said he heard that remark.

Mr. MINOR: He said that was all that was said—is what he said.

A. In our conversation, that is all that was said, Captain Jordan and I.

Q. You didn't make any mention of that before the Inspectors?

A. No, sir.

Q. Did you remember it at that time?

A. Yes, sir; I did. I knew he said it.

Q. And you remembered it at the time you were testifying before the Inspectors?

A. Yes, sir; but that wasn't in our conversation. He said that to somebody else.

Q. But you didn't say anything about that being said?

A. No, sir.

Q. When you were interrogated before on this trial—you remember that, do you, the other day?

A. Yes, sir.

Q. You remember I asked you about the conversation with Jordan, and about what you heard on the Samson.

A. You asked me what conversation Jordan and I had.

Q. I asked you what conversation you had with Jordan and with Church, and with any other officers of the Samson, didn't I?

A. I never had any conversation with Captain Church in regard to the collision.

Q. Didn't I ask you that—whether you had any conversation with Jordan or Church, or anybody else on the Samson? Didn't I ask you that?

A. You asked if I had a conversation with Jordan in the presence of Captain Church, I think.

Q. Didn't I ask whether you had a conversation with anybody on the Samson?

A. Yes, I think you did.

Q. At that time, you didn't make any statement about this remark you say now Jordan made, did you?

A. I don't think you asked me what was said.

Q. I say, you didn't say anything about this at that time, did you?

A. If you asked me what was said in the conversation, I told you just what I told you now.

Q. I say you didn't say anything about this remark of Jordan's before the Inspectors, did you? The other day you didn't say anything about that, did you?

A. Oh, no, I didn't say anything to the Inspectors.

Q. Now you were testifying then, before Jordan went on the stand?

A. Yes, sir.

Witness excused.

CAPTAIN EDWARD SULLIVAN, recalled by the libellant.

Direct Examination.

Questions by Mr. C. E. S. WOOD:

Have you ever tested where the present established, or then existing in 1911, Hunting Island Range Light hit the Oregon shore?

A. Have I ever tested?

Q. Yes.

A. Yes, sir.

Q. In what way?

A. By standing on the railroad track in line with them where they touch.

Q. Where do they touch?

A. Well, I couldn't describe it.

Q. Can you describe it in relation to Bugby Light?

A. No, they are a long ways apart.

Q. Could you on the land?

A. There is a peculiar mark on the railroad grade there where they have chipped off a part of the formation. It shows on that, a white blaize, but I couldn't describe it beyond that point.

Q. Can you look at this Libellant's Exhibit 1 and state if that would be approximately right, according to your ideas.

A. It would appear so.

Witness excused.

HENRY STAYTON, recalled for further examination.

Questions by Mr. GUTHRIE:

Captain Stayton, when you came on duty that morning, July 22nd, did you take notice whether or not there was a green light burning on the Henderson?

A. Yes, sir, I paid particular attention to it.

Q. Was there or was there not?

A. No, sir, there wasn't any.

Whereupon proceedings herein adjourned until Wednesday, January 22, 1913, 10 A. M.

Portland, Oregon, Wednesday, January 22, 1913,  
10 A. M.

CAPTAIN J. W. SHAVER, recalled by the libellants in rebuttal.

## Direct Examination.

Questions by C. E. S. WOOD:

I think you have already stated your interest in this case as one of the officers and members of the Shaver Transportation Company, did you not, Captain?

A. I think so, yes.

Q. And have you ever navigated the Columbia and Willamette Rivers?

A. Yes.

Q. Commencing how long ago?

A. About 33 years ago.

Q. For how long a time did you navigate?

A. Why, I was on the boats regularly for about 20 years.

Q. And stopping how long ago regular service?

A. Oh, I think about ten years ago. Of course I have been more or less since then, but not regularly.

Q. I was going to say, have you been on the river doing navigating more or less since then?

A. Yes, I have.

Q. And in what capacity did you navigate these rivers?

A. Well, I was mate for a few years, and then I had my master's papers for about 30 years.

Q. And on what character boats?

A. Stern wheel boats. Ran the Henderson some, and in fact, all of my boats. I was master of the Manzanillo; running on the Skamokowa and Klatskanine route, on the Manzanillo and Shaver for about ten years.

Q. What is the Klatskanine route?

A. That is passenger and freight.

Q. What part of the river?

A. This side of Clifton, but we run in there once a week, and two trips a week to Clifton and across these sloughs back of Skamokowa and up to Cathlamet.

Q. By "these sloughs," what sloughs do you refer to?

A. Around Prairie Channel, Clifton Slough, and we used to sometimes go on down and across into the Columbia, and sometimes go through Red Slough; made landings at all these different places—Tenas Il-  
lihee Island, Puget Island.

Q. Now, in these 30 years of experience, what parts of the Columbia River do you refer to—between Portland and Astoria?

A. Yes, between Portland and Astoria, some on the upper Columbia, but mostly between Portland and Astoria.

Q. What business were your boats engaged in?

A. Carrying passengers and freight first, the first few years, and the last few years towing logs and ships.

Q. You heard the testimony given in this case, particularly I now refer to Captain Jordan's testimony, did you?

A. Yes, sir.

Q. In your opinion, could he have rounded that point opposite Rugby Light—that point of Puget Isl-

and opposite Bugby Light, with the flotilla of stone barges with the Samson, as he says he did, and kept a continuous port helm without straightening up?

Mr. MINOR: I object to this on the ground that the witness does not appear to have towed a flotilla of that character, or to be acquainted with the Samson.

Mr. C. E. S. WOOD: I will withdraw my question.

Q. What business were your boats engaged in, generally?

A. At the present time?

Q. No, during these 30 years of experience.

A. Well, passenger and freight, and towing ships and towing logs, and towing all kinds of barges, and I have towed schooners myself from here to Astoria. I have handled ships here in the harbor myself, without any river pilot. I have also been on the boat and handled the boat when handling all kinds of steamers through the bridges, and moving them around the harbor.

Q. Have you towed barges alongside?

A. Yes, sir.

Q. Do you know anything about the Samson and her navigation qualities?

A. I have never handled her but of course I have a pretty good knowledge of boats of that kind. Of course I never have handled any propellers, though, of that size.

Q. Now, from your knowledge of boats in general could Captain Jordan have brought these three

stone barges around the point referred to, on that swing—on a continuous port helm, and not have straightened them up?

Mr. MINOR: I make the same objection.

Q. (Continuing) or changed his helm?

A. Why, in my opinion, it would be impossible, because if he didn't straighten her out, I don't know how he would have gotten down the river.

Q. Just give your reasons in detail—explain them.

A. Towing a straight tow in that way—two barges, one on each side, and one straight ahead of the Samson, it makes an even tow, so that the boat, if she handles good, would handle pretty near the same as if she didn't have any tow. Only, of course, it would be much slower; would have the same effect. If they had a barge on one side, of course that would make a difference, but having a barge on each side, and one straight ahead, why it makes the same, pretty near, as a straight tow.

Q. What would be the effect of the continuous port helm on any vessel or this tow in particular—or any vessel?

A. Why, they would surely run ashore in a very short time.

Mr. MINOR: Same objection to this witness, not properly qualified.

Q. But irrespective of that, before we get ashore sticking to this position of straightening up, how do you straighten up a vessel after a swing of that kind?

A. Well, on a port helm, you have to starboard

your helm to straighten her up, and put her a little past midships, and then swing it back to port again when you go to steady her.

Q. And if you didn't do this, what would be the effect of the swing?

Mr. MINOR: You understand, all this evidence is subject to my objection?

Mr. C. E. S. WOOD: I understand the objection runs to all of this, and you can have it so entered in the record.

A. If you didn't straighten her up at all, she would keep swinging and if there was enough room, she would turn clear around, and if not, she would run ashore.

Q. Now, again referring to the Samson and the stone barges rounding the point of Puget Island, opposite Bugby Light, as described by Captain Jordan, in your opinion, what would have been the result if, as he says, he never changed his helm from port to starboard, but kept onto port all the time, to a certain degree, and after swinging round the point, put her more to port, and then hard aport, and in the condition of a port helm, (some of the time, say a couple of minutes, hard aport) for five minutes—ran with this port helm commencing, say, from 400 to 800 feet off Puget Island, and for safety we will take the extreme distance, 800 feet off Puget Island, and with a port helm as I have described it, and running in that way with the Samson and her tow for five minutes, what would be the result, in your opinion?

Mr. MINOR: Objected to as the witness is not properly qualified.

A. Why, she would—I hardly think she would have quite room to turn around, but she would swing around so as to be partly head upstream. She would be more than square around to the current.

Q. Taking the distance of four to eight hundred feet off shore at that part of the island, what would be her probable course, and the result in relation to the island itself?

A. I don't know as I quite understand what you mean. After she got around the point of the island—

Q. (Interrupting) I don't mean the lines of the island. I mean the ground—the shore, rather 800 feet off. Wait a minute. Before I ask you that question, I will ask you another. I will withdraw that. Are you familiar with the currents of the Columbia in this part of the river?

A. Yes, sir, I think so. I have had quite a lot of experience there.

Q. Are you familiar with the currents down Prairie and Clifton Channel, and these sloughs that you speak of?

A. Yes, sir. I run a number of years down as far as Clifton, and towed down to Nappa, clear down that channel.

Q. Were these currents substantially the same in 1911, when this accident occurred?

A. Yes, sir, I have been there more or less. I was there all the time we were raising the Henderson;

there a week or so, and have been there at different times since.

Q. In your opinion, those currents practically were the same in 1911 as they had been prior to that?

A. Yes, sir, about the same. The water is shoal all the way across there. Of course, 14 feet is about the deepest there is in any place, and in most places it runs as low as seven feet or shoaler.

Mr. SNOW: All the way across where, Captain Shaver?

A. From the head of Tenas Illihee Island to this Hunt's Mill Point.

Mr. SNOW: You mean across Clifton Channel?

A. Yes, sir.

Q. Well, are you familiar with the depth of water along Puget Island up around this point?

A. Not to an exact depth, but—

Q. (Interrupting) In a general way?

A. In a general way there is plenty of water right close up to the shore. We always tow right along close with rafts, and down below, along the seining ground I have sounded down there.

Q. Do you know what the draft of water of the Samson and her barges was at this time?

A. I know from the evidence here that she drew about 15 feet, I think—14 feet.

Q. Does that agree with your own idea of her draft?

A. Yes, sir, I would think she would draw from 11 to 14 feet.

Q. Now, then, in relation to the draft of the Samson, she was deeper than her barges, as I understand it?

A. Yes, I think she drew more.

Q. With relation to the draft of the Samson as about 15 feet, and relation to the depth of the water off this part of Puget Island, and starting from four to eight hundred feet off the island, on that port helm, and running for five minutes, part of the time, say a couple of minutes hard aport, what would have been the result, in your opinion?

Mr. MINOR: Same objection, witness not competent.

A. You mean in the water? That is about the same as I said before. She would run ashore, you mean?

Q. She would run ashore.

A. Yes, the water is deep to within about 100 feet of the shore when the tide is down, practically all the way along the island.

Q. So that, in your opinion, would give her 300 to 700 feet to maneuver in under this port helm?

A. 300 feet, why she would surely run ashore. 700 or 800 feet, she would perhaps turn around, and head a little upstream, I think. Of course, if her engines were stopped, she wouldn't turn so quick, but if the engines were running, why, she would turn much quicker.

Q. What is the customary way of towing in the Columbia River when a towboat takes a single tow

alongside? Just put it in this way: When a towboat takes a tow alongside, what is the customary way of fastening the towboat to the tow, in relation to the angle each one bears to the other, or the parallelism?

Mr. MINOR: Objected to as not rebuttal.

Mr. C. E. S. WOOD: All right, I withdraw the question. I want to make it as short as possible.

Mr. SNOW: It is rebuttal.

Mr. MINOR: I didn't ask a thing in the world about that.

Mr. C. E. S. WOOD: I think I will have to take it to explain about these lines, so I will take it over Mr. Minor's objection.

A. It is customary to always put the towboat a little quartering onto the tow, so as to offset the current. If the tow is on one side, and you put them parallel, it always has a tendency to push the tow around a little. You have to keep your helm over a little to offset that, and usually put them on a little quartering to offset that helm.

Q. Is this angle of one vessel with the other great or very slight?

A. It is very slight. It would perhaps be an angle of a foot or a foot and a half in 100 feet, something like that. That has been the custom for years, ever since I have been on the river.

Q. Would it, in your opinion, have any practical effect on the side lights?

A. No, none that would be noticeable, I don't think. I never heard any one speak of it before, in

my 30 years experience.

Q. Would it have any effect on the—in the way of confusing a man approaching from ahead, coming dead on, or practically so, coming down?

A. No, sir.

Q. What, in your experience with tows, is the force of the Clifton channel current, and how does it act in relation to the current of the main river?

Mr. MINOR: I want to object to this also as not rebuttal.

Mr. C. E. S. WOOD: On these questions of current, I think we anticipated our rebuttal at the beginning.

Mr. MINOR: You put that in your case in chief.

Mr. C. E. S. WOOD: We did, for the convenience of certain witnesses, but we reserved the right, but you went into it.

Mr. MINOR: I had to go into it. You put it in evidence, and therefore I had to go into it.

A. The principal part of the current, in fact, most all the current, runs down the main channel. There is very little goes down Clifton Channel, but none to speak of. In towing we never feel any suck, with the tow of any kind, coming by there. In coming up with logs when we cross the channel from the main channel—

Mr. SNOW: (Interrupting): Coming up with logs from where?

A. Coming up Clifton Channel, in crossing the main channel, we always have to head the boat quite

a ways up stream in order to offset this current in the main channel, for if you head straight across, they would go right down broadside.

Q. Have you experimented and observed since the accident and at about the same stage of water, as near as it could be got, the current in the river in relation to the Clifton Channel, and which way the drift—that is the drift wood and drift stuff—in the river went?

Mr. MINOR: All this I understand is subject to my objection.

Mr. C. E. S. WOOD: Yes.

A. Yes, sir, I had been there since then, and have watched the drift come down the main channel, and which way it went, and it drifted right on down the main channel between Tenas Illihee Island and the foot of Puget Island.

Mr. SNOW: Between Tenas Illihee Island and Puget Island?

A. Between Tenas Illihee Island and Puget Island.

Q. That is, it did not suck off into Clifton Channel?

A. No, sir. I have been there several times since this accident.

Q. Now, if the accident occurred—you know the point in relation to that slough on Puget Island where Captain Jordan says the collision occurred?

A. Yes, the second slough, I think.

Q. You know the point I mean? You have it in

mind?

A. Yes, sir.

Q. You found the Henderson in her place, her resting place, the next day, didn't you?

A. Yes, sir.

Q. And have you stated already in this case about locating her?

A. Yes.

Mr. SNOW: He has, yes.

Q. Now, if the collision occurred where Captain Jordan says that it did, at that point just off Puget Island, near this slough, could the Henderson having been put out of business, as we say, within two or three minutes after the collision have drifted to the place where you found her, across the main channel of the river?

Mr. MINOR: I think that question is decidedly leading, Mr. Wood. I wouldn't mind with an ordinary witness, but with this man.

Q. I will just change the latter part of my question to this: Where, in your opinion would the Henderson have drifted, and, as far as you can tell, where would she have brought up?

A. Well, she would have surely drifted right down the main channel, until she struck some shoaler water below.

Q. In your opinion, then, she would not have drifted to where you found her? -

A. It would be impossible to drift across that strong current, because at that time of the year we

only had slack water about two hours at the last of the flood tide. The rest of the time, the current was running down strong, and it would have been impossible to have drifted across that deep water over onto shoal water. She would have drifted straight down in the deep water until she struck some shoaler bar below, perhaps at the foot of Puget Island.

Q. There has been some testimony here that the Henderson careened over within two or three minutes after the collision, and sunk and was bumped on the bottom all the way down to where she finally brought up. If that had been the case at the point—if the point of collision had been where Captain Jordan says, and she had sunk, and bumped along the bottom, could she, in your opinion, have come to the place where you found her?

A. No, sir.

Mr. MINOR: Same objection, leading.

A. If she went across that channel, she would have went in 40 or 50 feet of water, and would have been clear out of sight.

Mr. SNOW: That is, sunk in deep water?

A. Yes, would have went clear under. Of course, the current would have taken her along on the bottom until she would eventually have struck on a shoal.

Q. Now, if the collision occurred where Captain Sullivan says it did, a little off Hunts Mill Point, having regard to the depth of water and the current, where, in your opinion, would the Henderson have brought up?

Mr. MINOR: Objected to as not rebuttal.

A. Well, in my opinion she would have brought up about where she did. She would have had to drift right along that edge of shoal water until she struck it shoaler, and at the head of Tenas Illihee Island the water is shoaler, so that would have brought her up about on that shoal.

Q. You heard Captain Jordan's testimony about the shutting out of the green lights for an instant, did you?

A. Yes, sir.

Q. In your experience, would it be possible for a man from one quarter to one-half a mile away, to note the instantaneous passage of a stay, or something of that kind, across one of the colored lights?

A. No, sir, no small object like that, I don't think, would ever affect it. If it was something six or eight inches across, it might, but one an inch, or some stay like that, wouldn't affect it.

Q. Which, as a matter of observation to the average eye, is the stronger and more visible light—the red or green?

A. The red.

Q. If Captain Sullivan was proceeding up the river, substantially as shown on Libellant's Exhibit 2, and left his course at F and went on a port helm to starboard, over to G, and then resumed and went up along the line G and 1 and 2, and the Samson and her tow were coming down along the line J and L and I, what effect from the point of observation of the

Samson, along the line I have named, would his—would Sullivan's turning of her along the line F-G have upon the observation of the green light by Jordan on the Samson?

A. Well, I don't hardly think that Jordan could see his green light if he was coming this way (illustrating).

Q. From here first, F to G—that maneuver?

A. He couldn't possibly see it there, and I hardly think he could see it coming here. He might when he got up about in here somewhere (illustrating).

Q. When Jordan got about to L.

A. Yes, about to L.

Q. Of course these lines are only Captain Sullivan's estimate, and no one knows the exact course. Never of course been charted—couldn't be. Then I will ask you if, taking the line G-I as approximately Sullivan's course, L-I approximately Jordan's Course, whether it would be possible, by slight change, of course, due to steering, that the green light might be shut out from Jordan for a short time on that course?

A. Yes, if Sullivan would swing to port a little once in a while, of course he could see the green light. It wouldn't take very much of a swing for him to swing so he could see it.

Mr. ERSKINE WOOD: You mean swing to port?

A. Yes, swing to port. Starboard his helm and swing to port.

Q. Did you ever make it a business to reclaim logs broken loose from the various up-river booms.

which drifted into the Columbia River above Puget Island?

A. Yes, sir, we have for a number of years picked up logs for the Cowlitz Boom people. The boom used to break most every year, and they had one of our boats for several years picking up logs.

Mr. SNOW: Where is the Cowlitz Boom Company's property?

A. Mouth of the Cowlitz, right across from Rainier.

Mr. SNOW: In the state of Washington.

A. Yes. The logs would come down the Columbia. Then they would charter one of our boats, maybe two of them. I was most always along when they were picking up these logs, and had quite a little bit of experience in picking them up.

Q. Where did you find that they drifted to and landed?

A. Why, we found them all the way along from Cowlitz boom down. A good many of them along in through Puget Island and below Cathlamet. Some in Skamokawa, some along Coal Creek Slough. Of course there would be some go down the main channel at Puget Island, and a few would go down Clifton Channel, but not a great many. We never picked up a great many down that channel.

Q. What are the conditions, according to your observation, which will draw surface floating, that is, bodies floating on the surface of the Columbia, down into Clifton Channel? Where does this float-

ing body have to be in relation to the main current and the Oregon shore, and what the condition of the water?

A. Well, anything to go down Clifton Channel would have to be close on that side. Of course, if it would meet a flood tide, then that might shift it one way or the other. But when there is a strong current down past Bugby, most everything goes down the main channel.

Q. Do you know, according to the testimony, and the location on the chart here, where the stone barges are said to have been located and picked up the next morning?

A. Yes, sir.

Q. I mean as located by Captain Jordan and the men who were on the Samson?

A. Yes, sir, I know about where they claim they were.

Q. In your opinion, could these barges have reached this point if the collision occurred where Sullivan says it did, over at Hunts Mill Point?

Mr. MINOR: I think that is decidedly leading.

Mr. C. E. S. WOOD: All right. I will take it out. It is an expert opinion, but I want to eliminate everything that is objectionable.

Mr. MINOR: I haven't objected to any questions that you asked other witnesses that were leading, but this is your client, you know, and I do think it is leading to him.

Q. You know where Captain Sullivan says the